

**CODE OF ORDINANCES  
BLUE EARTH COUNTY, MINNESOTA**

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Published by Order of the Board of Commissioners

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OFFICIALS  
OF  
BLUE EARTH COUNTY, MINNESOTA  
AT THE TIME OF THIS CODIFICATION

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Alvis More

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*Board of Commissioners*

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Dennis McCoy

*County Administrator*

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Ross Arneson  
*County Attorney*

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PREFACE

This Code constitutes a codification of the general and permanent ordinances of the County of Blue Earth, Minnesota.

Source materials used in the preparation of the Code were the ordinances adopted by the Board of Commissioners. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the ordinances included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their locations within the Code is included at the back of this Code.

*Chapter and Section Numbering System*

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

*Page Numbering System*

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

|                           |       |
|---------------------------|-------|
| CODE                      | CD1:1 |
| CODE APPENDIX             | CDA:1 |
| CODE COMPARATIVE TABLE    | CCT:1 |
| STATE LAW REFERENCE TABLE | SLT:1 |
| CODE INDEX                | CDi:1 |

*Index*

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

#### *Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

#### *Acknowledgments*

This publication was under the direct supervision of Jan Shekitka, Senior Code Attorney, and Robert MacNaughton, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Veryl Morrell, Zoning Administrator, for his cooperation and assistance during the progress of the work on this publication. It is hoped that his efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

#### *Copyright*

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the County of Blue Earth, Minnesota. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the County of Blue Earth, Minnesota.

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Municipal Code Corporation and the County of Blue Earth, Minnesota. 2002.

#### ADOPTING ORDINANCE

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR BLUE EARTH COUNTY, MINNESOTA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE

WHEREAS, Minnesota Statutes, Chapter 394, commonly known as the County Planning and Zoning Enabling Legislation, gives County Boards the authority to adopt and amend Official Controls to protect the public health, safety, and welfare; and,

Blue Earth County, Minnesota, Code of Ordinances  
CODE OF ORDINANCES BLUE EARTH COUNTY, MINNESOTA

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WHEREAS; codification of the existing Blue Earth County Ordinances will benefit the citizens of Blue Earth County by ensuring that the ordinances comply with statutory requirements, are arranged in a uniform, cross-referenced legally recognized, format available in written text or in a readily accessible electronic format; and,

WHEREAS; all conflicting sections / provisions within the ordinances have been identified and resolved by eliminating the conflicting less restrictive provisions as provided by law; and,

WHEREAS, the Planning Commission of the County on the 5th Day of September, 2002, following proper notice held a public hearing regarding the Blue Earth County Code of Ordinances. After taking testimony and considering the Codification, the Planning Commission unanimously voted to forward a recommendation for approval of the Code to the County Board; and,

WHEREAS, the Blue Earth County Board of Commissioners on the 24th Day of September, 2002, following proper notice held a public hearing regarding the request, and following consideration of testimony, voted to adopt the proposed Blue Earth County Code of Ordinances.

NOW THEREFORE BE IT ORDAINED, by the Blue Earth County Board of Commissioners, that the codification of all existing Blue Earth County Ordinances, hereafter known as the Blue Earth County Code of Ordinances, is hereby adopted.

Section 1. The Code entitled "Code of Ordinances, Blue Earth, Minnesota," published by Municipal Code Corporation, consisting of chapters 1 through 24, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before October 23, 2001, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days or by both fine and imprisonment. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the county may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the county board to make the same part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after October 23, 2001, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective 30 days after its passage and publication.

PASSED AND ADOPTED by the Blue Earth County Board of Commissioners this 24th Day of September, 2002. Alvis More, Chair  
Blue Earth County Board of Commissioners

ATTEST: Dennis McCoy  
Blue Earth County  
Administrator

Blue Earth County, Minnesota, Code of Ordinances  
SUPPLEMENT HISTORY TABLE

## SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

| Date Adopted  | Included/<br>Omitted | Supp. No. |
|---------------|----------------------|-----------|
| 8- 9-2011     | Included             | 5         |
| 2-28-2012     | Included             | 5         |
| 7-24-2012     | Included             | 5         |
| 9-25-2012     | Included             | 5         |
| 3-26-2013     | Included             | 5         |
| 2-21-2014     | Included             | 5         |
| 2-16-2016     | Included             | 5         |
| 7-19-2016     | Included             | 5         |
| 8-23-2016(1)  | Included             | 5         |
| 8-23-2016(2)> | Included             | 5         |
| 4-18-2017     | Included             | 5         |
| 10-24-2017    | Included             | 5         |
| 12-12-2017(1) | Included             | 5         |
| 12-12-2017(2) | Included             | 5         |
| 5-29-2018     | Included             | 5         |
| 5-19-2020     | Included             | 6         |
| 8- 5-2020     | Included             | 6         |
| 8-25-2020(1)  | Included             | 7         |
| 8-25-2020(2)  | Included             | 7         |
| 9-22-2020(1)  | Included             | 7         |
| 1-19-2021(1)  | Included             | 8         |
| 1-19-2021(2)  | Included             | 8         |
| 1-19-2021(3)  | Included             | 8         |
| 3-23-2021(1)  | Included             | 8         |
| 4-27-2021(1)  | Included             | 8         |
| 5-25-2021(1)  | Included             | 8         |
| 5-25-2021(2)  | Included             | 8         |
| 7-27-2021(1)  | Included             | 8         |
| 8-24-2021(1)  | Included             | 8         |
| 8-24-2021(2)  | Included             | 8         |

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SUPPLEMENT HISTORY TABLE

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|              |          |    |
|--------------|----------|----|
| 4-27-2021(1) | Included | 9  |
| 7-27-2021(1) | Included | 9  |
| 1-25-2022(1) | Included | 10 |
| 1-25-2022(2) | Included | 10 |
| 1-25-2022(3) | Included | 10 |
| 3-22-2022    | Included | 11 |

## Chapter 1 GENERAL PROVISIONS

### Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Blue Earth County, Minnesota."

State law reference(s)—Codification by counties, Minn. Stats. § 375.52.

### Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the board of commissioners:

*Administrator, county administrator.* The terms "administrator" and "county administrator" mean the county administrator.

*Agent or employee.* Whenever the Code requires an act to be done, which act may legally be done by an agent or employee as well as by the principal, such requirement shall be satisfied by the performance of such act by an authorized agent or employee.

*Board of commissioners, county board.* The terms "board of commissioners" and "county board" mean the Blue Earth County Board of Commissioners.

*Code.* The term "Code" means the Code of Ordinances, Blue Earth County, Minnesota, as designated in section 1-1.

*Computation of time.* The time, where the performance or doing of any act, duty, matter, payment or thing is ordered or directed and the period of time or duration for the performance or doing thereof is prescribed and fixed by law or ordinance, shall be computed so as to exclude the first and include the last day of the prescribed period or duration of time. When the last day of the period falls on a Saturday, Sunday or legal holiday, that day shall be omitted from the computation.

*County.* The term "county" means Blue Earth County, Minnesota.

*Gender.* A word importing either the masculine or feminine gender shall extend and be applied to both the masculine and feminine genders, and to firms, partnerships and corporations.

*Joint authority.* Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

*Keeper and proprietor.* The terms "keeper" and "proprietor" mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

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*Minn. Stats.* The abbreviation "Minn. Stats." means and refers to the latest edition or supplement of the Minnesota Statutes.

*Month.* The term "month" means a calendar month.

*Number.* A word importing the singular may extend and be applied to the plural, and vice versa.

*Oath.* The term "oath" shall include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

*Officer, employee, department, board, commission or other agency.* Whenever any officer, employee, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the Blue Earth County, Minnesota." Whenever, by the provisions of this Code, any officer, employee, department, board, commission or other agency of the county is assigned any duty or empowered to perform any act or duty, reference to such officer, employee, department, board, commission or other agency shall mean and include such officer or any designee or authorized subordinate and shall also include the successor in function to such officer, employee, department, board, commission or agency.

*Owner.* The term "owner" when applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

*Person.* The term "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals. For the purpose of imposing penalties or fines for violation of any section of this Code and whenever the term "person" is used in such section for which a penalty is imposed, person shall include partners or members of an association and as to corporations, shall include the officers, agents or members thereof, who are responsible for any such violation.

*Personal property.* The term "personal property" shall include every species of property except real property.

*Property.* The term "property" shall include real, personal and mixed property.

*Public place.* The term "public place" means any place subject to the primary control of any public agency, including but not limited to any park, street, public way, cemetery, schoolyard or open space adjacent thereto and any lake or stream.

*Real property.* The term "real property" shall include lands, tenements and hereditaments.

*Sidewalk.* The term "sidewalk" means any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians.

*State.* The term "state" means the State of Minnesota.

*Street.* The term "street" shall embrace streets, avenues, boulevards, roads, highways, alleys, lanes, viaducts and all other public ways in the county.

*Tenant, occupant, lessee.* The terms "tenant," "occupant," and "lessee," when applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or part of, such building or land, either alone or with others.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Written, in writing.* The words "written" and "in writing" shall include any representation of words, letters or figures, whether by printing or otherwise.

The terms and phrases used in this Code shall be construed in their plain, ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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State law reference(s)—Construction of words and phrases, Minn. Stats. § 645.08 et seq.; definitions of words and phrases, Minn. Stats. § 645.44 et seq.

**Sec. 1-3. Catchlines of sections.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

**Sec. 1-4. References to chapters or sections.**

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

**Sec. 1-5. History notes.**

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

**Sec. 1-6. References and editor's notes.**

References and editor's notes following certain sections of this Code are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

**Sec. 1-7. Code does not affect prior offenses, penalties and rights.**

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

**Sec. 1-8. Effect of repeals.**

The repeal of an ordinance or a portion of this Code shall not revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect. The repeal of an ordinance or a portion of this Code shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed.

**Sec. 1-9. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the county, or authorizing the issue of any bonds of the county, or any evidence of the county's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the county.



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- (3) Any administrative ordinances of the county not in conflict or inconsistent with the provisions of this Code.
  - (4) Any right or franchise granted by any ordinance.
  - (5) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the county.
  - (6) Any appropriation ordinance.
  - (7) Any ordinance levying or imposing taxes.
  - (8) Any ordinance prescribing fees, fines, charges, rates, or other specific monetary values.
  - (9) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the county.
  - (10) Any ordinance regarding salaries or compensation of county officers or employees.
  - (11) Any temporary or special ordinances.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. All ordinances are on file in the county offices.

### **Sec. 1-10. Amendments to Code.**

- (a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the board of commissioners to make such additions or amendments a part of this Code, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments.
- (b) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion, such repealed portions may be excluded from the Code by their omission from the reprinted pages.
- (c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section \_\_\_\_ of the Code of Ordinances, Blue Earth County, Minnesota, is hereby amended to read as follows:...." The new provisions shall then be set out in full.
- (d) If a new section not then existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Blue Earth County, Minnesota, is hereby amended by adding a section to be numbered \_\_\_\_\_, which section reads as follows:...." The new section may then be set out in full.
- (e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

### **Sec. 1-11. Supplementation of Code.**

- (a) By contract or by county personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the board of commissioners. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the board of commissioners or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so

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prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by their omission from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier, meaning the person authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," or "this section," as the case may be, or to "sections \_\_\_\_ through \_\_\_\_." The inserted section numbers will indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and
  - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

### **Sec. 1-12. Severability of parts of Code.**

It is hereby declared to be the intention of the board of commissioners that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

### **Sec. 1-13. General penalty.**

- (a) Whenever in this Code or in any ordinance of the county any act is prohibited or is made or declared to be unlawful, an offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or county ordinance shall be punished as a misdemeanor, that is, with a fine of up to \$1,000.00 or imprisonment for not more than 90 days or by both such fine and imprisonment, unless otherwise provided in this Code. The term "misdemeanor" shall be as defined in Minn. Stats. § 609.02, subd. 3. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.
- (b) In case of the amendment by the board of commissioners of any section of this Code for which a penalty is not provided, the general penalty as provided in subsection (a) of this section shall apply to the section, as amended; or in case such amendment contains provisions for which a specified penalty other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so specified shall be held to relate to the amended section, unless such penalty is specifically repealed therein.

State law reference(s)—Authority of counties to adopt penalty of up to \$1,000.00, Minn. Stats. § 375.53.

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**Sec. 1-14. Issuance of petty misdemeanor and misdemeanor citations.**

- (a) Except as specifically provided by statute, only a peace officer, constable and part-time peace officer may issue a citation in lieu of arrest or continued detention unless specifically authorized by ordinance.
- (b) The county sheriff relies upon the assistance of the park superintendent, the water patrol officer and the sheriff's posse members to assist in law enforcement.
- (c) The park superintendent, water patrol officer and sheriff's posse members are not peace officers, constables or part-time peace officers, and have no statutory authority to issue citations in lieu of arrest absent authority by ordinance.
- (d) The county sheriff maintains that it would promote cost-effective and efficient law enforcement if the park superintendent, water patrol office and sheriff's posse members had authority to issue citations in lieu of arrest.
- (e) The park superintendent, water patrol officer and sheriff's posse members have the authority, under the direction of the county sheriff, to issue citations in lieu of arrest whenever the park superintendent, water patrol officer or sheriff's posse member has probable cause to believe that the person cited has committed a petty misdemeanor or misdemeanor which the issuing official has authority to enforce, and issue a notice to appear and release such person on his promise to appear in court.

(Ord. of 7-12-1998)

**Chapter 3 ALCOHOLIC BEVERAGES**

***ARTICLE I. IN GENERAL***

**Secs. 3-1—3-30. Reserved.**

***ARTICLE II. POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES BY UNDERAGE PERSONS AT EVENTS OR GATHERINGS***

**Sec. 3-31. Purpose and findings.**

The board of commissioners of Blue Earth County intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The board of commissioners of Blue Earth County finds that:

- (1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

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- (3) Alcohol is an addictive drug which if used irresponsibly could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
  - (4) Often events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity and in some circumstances provide the alcohol.
  - (5) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove; and an ordinance is necessary to help further combat underage consumption.
  - (6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

(Ord. of 8-9-2011, § 1)

### **Sec. 3-32. Authority.**

The ordinance from which this article derives is enacted pursuant to Minn. Stats. § 145A.05, Subdivision 1.

(Ord. of 8-9-2011, § 2)

### **Sec. 3-33. Definitions.**

For purposes of this article, the following terms have the following meanings:

*Alcohol* means ethyl alcohol; hydrated oxide of ethyl; or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits, including dilutions and mixtures thereof from whatever source or by whatever process produced.

*Alcoholic beverage* means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer and which contains one-half of 1 percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

*Event* or *gathering* means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

*Host* means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

*Parent* means any person having legal custody of a juvenile:

- (1) As natural/adoptive parent or stepparent;
- (2) As a legal guardian; or
- (3) As a person to whom legal custody has been given by order of the court.

*Person* means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

*Residence* or *Premises* means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, where occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

*Underage person* is any individual under 21 years of age.

(Ord. of 8-9-2011, § 3)

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### **Sec. 3-34. Prohibited acts.**

- (a) It is unlawful for any person(s) to:
  - (1) Host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows or reasonably should know that an underage person will or does:
    - a. Consume any alcohol or alcoholic beverage; or
    - b. Possess any alcohol or alcoholic beverage with the intent to consume it; and
    - c. The person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- (b) A person is criminally responsible for violating subsection 3-34(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
- (c) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

(Ord. of 8-9-2011, § 4)

### **Sec. 3-35. Exceptions.**

- (a) This article does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- (b) This article does not apply to legally-protected religious observances.
- (c) This article does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stats. § 340A.503, Subd. 1(a)(1).
- (d) This article does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(Ord. of 8-9-2011, § 5)

### **Sec. 3-36. Enforcement.**

This article can be enforced by any police officer or sheriff's deputy in the county.

(Ord. of 8-9-2011, § 6)

### **Sec. 3-37. Penalty.**

Violation of section 3-34 is a misdemeanor.

(Ord. of 8-9-2011, § 8)

## **Chapter 4 BUSINESSES<sup>1</sup>**

### ***ARTICLE I. IN GENERAL***

**Secs. 4-1—4-30. Reserved.**

### ***ARTICLE II. ADULT USES***

#### ***DIVISION 1. GENERALLY***

#### **Sec. 4-31. Statutory authorization.**

This article is adopted pursuant to the authority delegated to the county by Minn. Stats. ch. 394, commonly known as the Minnesota County's Planning and Zoning Enabling Legislation.

(Ord. No. 150, § 1, 7-27-1999)

#### **Sec. 4-32. Findings and purpose of article.**

- (a) This article is intended to regulate "adult uses," those premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.
- (b) The nature of adult uses is such that they are recognized as having adverse secondary impacts, based upon studies of the impacts that adult establishments have on their surrounding communities. These studies have been conducted by the state attorney general, the American Planning Association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington.
- (c) The adverse secondary impacts found in the studies include increased crime rates, decreased property values, increased transiency, neighborhood blight, and potential health risks. These impacts are particularly apparent when they are accessible to minors and located near residential properties or residential uses such as schools, day care centers, libraries or parks. The nature of the adult uses require that they not be allowed within certain zoning districts, or set back a minimum distance from each other, or other residential uses. Special regulation of these uses is necessary to ensure that the adverse secondary effects would not contribute or enhance criminal activity in the area of such uses, nor will it contribute to the blighting of downgrading of the surrounding property and lessening of its value.

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<sup>1</sup>Cross reference(s)—Utilities, ch. 22; GB general business district, § 24-211 et seq.; HB business district, § 24-231 et seq.; LI light industry district, § 24-251 et seq.; HI heavy industry district, § 24-271 et seq.; home occupations, § 24-308.

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- (d) It is therefore in the best interest of the public health, safety and welfare of the citizens of the county that certain types of activities, as set forth in this article, are prohibited upon the premises of licensed liquor, wine and beer establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. Further, the county intends that the standards in this article reflect the prevailing community standards in the county. This article is intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The board of commissioners also desires to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various acts of criminal conduct such as prostitution, sexual assault and disorderly conduct.

(Ord. No. 150, § 1, 7-27-1999)

#### **Sec. 4-33. Title and short title of article.**

- (a) Pursuant to Minn. Stats. ch. 394, the planning and zoning enabling legislation, the board of commissioners ordains this article, the county adult use ordinance.
- (b) This article shall be known, and may be referred to, as the "adult use ordinance". When referred to in this article, it shall be known as this article.

(Ord. No. 150, § 2, 7-27-1999)

#### **Sec. 4-34. Definitions.**

Unless specifically defined in this section, words, terms or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this article its most reasonable application. All distances, unless otherwise specified, shall be measured horizontally.

*Adult uses* means, but are not limited to, adult bookstores, adult motion picture theaters, adult picture rental, adult minimotion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public.

*Body painting studio* means a business or establishment which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical area.

*Bookstore* means a building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.

*Cabaret* means a building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas.

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*Companionship establishment* means a companionship establishment which excludes minors by reason of age or which provides the service of listening to or engaging in conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

*Conversation/rap parlor* means a conversation/rap parlor which excludes minors by reason of age or which provides the service of listening to or engaging in conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

*Health/sport club* means a health/sports club which excludes minors by reason of age or if such club is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

*Hotel/motel* means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, or describing or relating to specified sexual activities or specified anatomical areas.

*Massage parlor, health club* means a massage parlor or health club which restricts minors by reason of age and which provides the service of massage if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

*Minimotion picture theater* means a building or portion of a building with a capacity of less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason of age or if such material is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

*Modeling studios* means an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

*Motion picture arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Motion picture theater* means a building or portion of a building with a capacity of more than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason of age or if such material is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

*Novelty business* means a business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

*Sauna* means a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

*Steam room/bathhouse facility* means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.



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*Adult uses, accessory*, means a use, business or establishment having ten percent or less of its stock in trade or floor area allocated to, or 20 percent or less of its gross receipts derived from movie rentals or magazine sales.

*Adult uses, principal*, means a use, business or establishment having more than ten percent of its stock in trade or floor area allocated to, or more than 20 percent of its gross receipts derived from movie rentals or magazine sales.

*Liquor license* means any of the following licenses issued or approved by the county pursuant to Minn. Stats. ch. 340A:

- (1) On-sale intoxicating malt liquor license;
- (2) On-sale intoxicating liquor license; or
- (3) On-sale wine license.

*Minor* means a person under 18 years of age.

*Police-related service calls* means requests for assistance made to the county sheriff's office from a neighboring resident, a victim of crime, a patron of the establishment, or the management of the adult use. Such calls may include, but are not limited to: assaults, disorderly conduct, indecent exposure, prostitution and trespassing.

*Specified anatomical areas* means:

- (1) Human genitals, pubic region, buttock, anus or female breasts below a point immediately above the top of the areola, unless completely and opaquely covered;
- (2) Erect penis, even if completely and opaquely covered.

*Specified sexual activities* means:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexual-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation or ejaculate, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts;
- (5) Situations involving persons, any of whom are nude, clad in undergarments, or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical constraint of any such persons;
- (6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being;
- (7) Human erection, urination, menstruation, vaginal or anal irrigation.

(Ord. No. 150, § 4, 7-27-1999)

Cross reference(s)—Definitions generally, § 1-2.

#### **Sec. 4-35. Permitted uses.**

Permitted uses of land or buildings as listed in this article, shall be permitted only in the districts indicated, and under the conditions specified.

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(Ord. No. 150, § 4, 7-27-1999)

**Sec. 4-36. Jurisdiction of article provisions.**

The provisions of this article shall apply to all adult uses located in unincorporated areas within the boundaries of the county.

(Ord. No. 150, § 3, 7-27-1999)

**Sec. 4-37. Compliance with article provisions.**

All adult uses shall be in full compliance with requirements of this article; article IV of chapter 6, pertaining to individual sewage treatment; chapter 24, pertaining to zoning; other applicable provisions of county, state or federal laws; and applicable fire, health and/or safety codes.

(Ord. No. 150, § 3, 7-27-1999)

**Sec. 4-38. Nonconforming adult uses.**

Nonconforming adult uses shall be subject to the provisions contained in the section 24-305, pertaining to nonconformities.

(Ord. No. 150, § 3, 7-27-1999)

**Sec. 4-39. Enforcement of article provisions.**

The board of commissioners, the county sheriff and the zoning administrator are responsible for the enforcement of this article.

(Ord. No. 150, § 3, 7-27-1999)

**Sec. 4-40. Penalty for violation of article.**

- (a) *Generally.* Any person violating any provision of this article is guilty of a misdemeanor. In addition, the county may sue for injunctive relief on any violation, or to prevent a violation, or may suspend and/or revoke any permits or licenses issued by the board of commissioners with cause.
- (b) *Suspension or revocation of adult use license.* Any violation of this article shall be a basis for suspension or revocation of any permit or license granted under this article. If the board of commissioners proposes to suspend or revoke the adult use license, the board of commissioners shall hold a hearing. The county will provide ten days' written notice before such a hearing.
- (c) *Revocation of liquor license.* Any violation of this article shall be a basis for suspension or revocation of a liquor license issued pursuant to Minn. Stats. ch. 340A. The board of commissioners, or anyone they delegate, shall follow the notice and hearing requirements for contested cases under Minn. Stats. chs. 14.57—14.70 of the Administrative Procedures Act.

(Ord. No. 150, § 3, 7-27-1999)

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**Sec. 4-41. Interpretation of article provisions.**

In the interpretation and application, the provisions of this article shall be interpreted to protect the public health, safety and welfare of the citizens of the county by providing for the regulation of adult uses. This article is not intended to limit or repeal any other powers granted to the county by the state.

(Ord. No. 150, § 3, 7-27-1999)

**Sec. 4-42. Abrogation and greater restrictions.**

It is not intended by this article to repeal, abrogate or impair any existing ordinances or laws. When this article is inconsistent with any other ordinance or law, that which imposes the greater restriction shall prevail.

(Ord. No. 150, § 3, 7-27-1999)

**Sec. 4-43. Referral to other laws.**

If any section of this article references another ordinance, statute, rule, or other provision of law, the reference shall be for that other provision of law as currently enacted and as it may be amended or recodified in the future.

(Ord. No. 150, § 3, 7-27-1999)

**Secs. 4-44—4-60. Reserved.**

*DIVISION 2. LICENSE*

**Sec. 4-61. Required.**

No person shall own or operate an adult use establishment without first having secured an adult use license from the county.

(Ord. No. 150, § 5, 7-27-1999)

**Sec. 4-62. Application.**

The application for an adult use license shall be submitted on a form provided by the county and shall include:

- (1) If the application is an individual: the name, residence, phone number and birthdate of the applicant shall be provided. If the applicant is a partnership: the name, residence, phone number and birthdate of each general and limited partner shall be provided. If the applicant is a corporation: the name, residence, phone numbers and birthdates of all persons holding more than five percent of the issued outstanding stock of the corporation.
- (2) The name, address, phone number, and birthdate of the operator and manager of such operation, if different from the owner.
- (3) The address and legal description of the premises where the adult establishment is to be located.

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- (4) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity or the operation of an adult establishment of adult business by the applicant, operator or manager, and whether or not the applicant has ever applied for or held a license to operate a similar type business in any other community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent of the issued and outstanding stock of the corporation, and whether or not those property owners have ever applied for or held a license to operate a similar type of business in other communities.
  - (5) The activities and types of business to be conducted.
  - (6) The hours of operation.
  - (7) Provisions to be utilized to restrict access by minors.
  - (8) A building plan of the premises detailing all internal operations and activities.
  - (9) The permit shall expire on December 31 of the year it is issued.

(Ord. No. 150, § 5, 7-27-1999)

#### **Sec. 4-63. Responsibility to obtain other permits/licenses.**

The granting of any permit or license pursuant to requirements of this article, or other applicable county ordinances, shall not relieve applicants of their responsibility to obtain any required state or federal permits.

(Ord. No. 150, § 5, 7-27-1999)

#### **Sec. 4-64. Fees.**

- (a) *Submittal.* Each application for an adult use license shall be submitted to the county administrator and shall be accompanied by payment in full of the required fee for the adult use license.
- (b) *Expiration.* Each license shall be issued for a period of one calendar year. All licenses shall expire on the last day of December of each year. Any portion of a year less than 12 months shall be counted as a full year for the purpose of calculation of fees.
- (c) *Annual fee.* The annual fee for an adult use license shall be as detailed in the fee schedule established by the board of commissioners. The fee may be adjusted from time to time by board of commissioners resolution.
- (d) *Refund.* If any application for a license is rejected, the license fee shall not be refunded. No part of the fee paid for any license issued under this article shall be refunded.

(Ord. No. 150, § 5, 7-27-1999)

#### **Sec. 4-65. Granting.**

- (a) The county sheriff shall investigate all facts set out in the application. Each owner of the establishment, whether he is an individual, partner or limited partner, shall be subjected to a criminal history background check by the sheriff or his designee. Costs of the criminal history investigations shall be borne by the applicant according to a fee schedule established by the sheriff. The application for the adult use license shall not be considered complete until all required information has been furnished, the investigation has been completed by the sheriff, and a report provided to the county administrator by the applicant. The planning commission shall hold a public hearing and report its findings to the board of commissioners within 30 days after the county administrator receives a complete application. At the hearing, opportunity shall be given to

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any person to be heard relating to the granting of the license. The board of commissioners shall grant or deny the adult use license within 30 days of the conclusion of the hearing.

- (b) The adult use license shall be issued only to the applicant and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premises or person without the written permission of the county. If the licensee is a partnership or corporation, a change in the identity of any of the principals of the partnership or corporation shall be deemed to be a transfer of the license.

(Ord. No. 150, § 5, 7-27-1999)

#### **Sec. 4-66. Ineligibility of certain person.**

No license shall be issued to any person:

- (1) Under 21 years of age.
- (2) Who is overdue in payments to a city, county, state or federal government of taxes, fees, fines or penalties, or charges for municipal services and utilities assessed against them or imposed upon them.
- (3) Who has been convicted of a gross misdemeanor or felony, or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses or adult establishments.
- (4) Who is not the proprietor of the establishment for which the license is issued.
- (5) To any applicant who is acting as an agent for an individual who would be disqualified pursuant to the criteria of this section.
- (6) Who has not paid the required investigation/licensing fees required by this article.

(Ord. No. 150, § 5, 7-27-1999)

#### **Sec. 4-67. Ineligible places.**

- (a) No license shall be granted for adult establishments on any premises where a licensee has been convicted of a violation of this article, or where any license under this article has been revoked for cause, until one year has elapsed after such conviction or revocation.
- (b) No license shall be granted for any adult establishment which is not in compliance with the county's land use regulations, or fire, health and safety codes, and all provisions of federal and state law.

(Ord. No. 150, § 5, 7-27-1999)

#### **Sec. 4-68. Conditions.**

- (a) All licensed premises shall have the license posted in a conspicuous place at all times.
- (b) No minor shall be permitted on the premises.
- (c) Any designated inspection officer of the county shall have the right to enter, inspect and search the premises of a licensee during business hours.
- (d) No adult goods or materials shall be offered, sold, transferred, conveyed, given, displayed or bartered to any minor.

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- (e) In granting a license for an adult establishment, the board of commissioners may impose additional conditions to protect the best interest of the surrounding area or the county as a whole.
  - (f) The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the county upon request.
  - (g) The licensee must cover or otherwise arrange all windows, doors and apertures to prevent any person outside the licensed premises from viewing any items or merchandise inside the premises depicting specified sexual activities or specified anatomical areas.

(Ord. No. 150, § 5, 7-27-1999)

**Secs. 4-69—4-90. Reserved.**

*DIVISION 3. OPERATIONAL RESTRICTIONS*

**Sec. 4-91. Adult uses, principal.**

- (a) *General provisions.* Adult uses as defined in subsection 4-34(b) shall be subject to the following general provisions:
  - (1) No person under 18 years of age shall be permitted in any adult use, principal, premises, enterprise, establishment, business or place.
  - (2) No liquor license shall be issued to any adult use related premises, enterprise, establishment, business or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in specified sexual activities or specified anatomical areas.
  - (3) No adult use related premises, enterprise, establishment, business or place shall allow or permit the sale or service of setups to mix alcoholic drinks. No alcoholic beverages shall be consumed on the premises of such premises, enterprise, establishment, business or place.
  - (4) Activities classified as obscene are not permitted and are prohibited. In no instance shall the application or interpretation of this article be construed to allow an activity otherwise prohibited by law.
  - (5) Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
  - (6) An adult use which does not qualify as an accessory use pursuant to section 4-93, shall be classified as an adult use, principal.
- (b) *Permitted locations.*
  - (1) Adult use, principal, shall only be allowed in the B-3 highway business district, and the L-1 light industrial district. Access, parking, screening, lighting and other relevant site-related criteria for all adult uses shall be as set forth in chapter 24, pertaining to zoning.

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- (2) Adult use, principal, shall be located at least 1,000 linear feet, as measured in a straight line from the closest point of the main entrance of the building within which the adult use, principal, is located to the property line of:
    - a. Any residentially used or zoned property.
    - b. Any licensed day care center.
  - (3) Any public or private educational facility classified as an elementary, junior high or senior high school.
  - (4) Any hotel or motel.
  - (5) Any public park or trails system.
  - (6) Any nursing home.
  - (7) Any youth establishment.
  - (8) Any church or church-related organization.
  - (9) Another adult establishment. No adult use, principal, shall be located in the same building or upon the same property as another adult use, principal.
- (c) *Hours of operation.* Hours of operation for adult uses, principal, shall be from 9:00 a.m. to 12:30 a.m. A differing time schedule may be approved by the board of commissioners if it can be satisfactorily demonstrated to the board of commissioners that all of the following apply:
- (1) The use does not adversely impact or affect uses or activities within 1,000 feet.
  - (2) The use will not result in increased policing and related service calls.
  - (3) Is critical to the operation of the business.
- (d) *Sign regulations.* Adult use, principal, shall adhere to the following sign regulations in addition to those set forth in article VI of chapter 24:
- (1) A sign message shall be generic in nature and shall only identify the name and type of business. Signs shall not be pictorial.
  - (2) Signs shall be limited to the size and number of signs permitted in the district in which the use is located.
- (Ord. No. 150, § 6, 7-27-1999)

#### **Sec. 4-92. Adult cabaret regulations.**

The following additional restrictions apply to adult cabarets:

- (1) No person, firm, partnership, corporation or other entity shall advertise, or cause to be advertised, an adult cabaret without a valid adult use license.
- (2) An adult use license shall maintain and retain for a period of two years the names, addresses and ages of all persons engaged, hired or employed as dancers or performers by the licensee.
- (3) An adult cabaret shall be prohibited in establishments where alcoholic beverages are served.
- (4) No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude unless as provided in subsections (7) and (8) of this section.
- (5) No patron or any person other than a dancer or live entertainer, as provided in subsections (7) and (8) of this section, shall be nude in an adult cabaret.

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- (6) No dancer, live entertainer or performer shall be under 18 years of age.
  - (7) All dancing shall occur on a platform intended for that purpose which is raised at least two feet above the level of the floor.
  - (8) No dancer or performer shall perform or dance closer than ten feet from any patron unless such dancer or performer is enclosed behind a floor to ceiling glass partition.
  - (9) No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer or performer.
  - (10) No person under 18 years of age shall be admitted to an adult cabaret.

(Ord. No. 150, § 6, 7-27-1999)

#### **Sec. 4-93. Viewing booth regulations.**

The following additional regulations apply to viewing booths:

- (1) Individual motion picture viewing booths must be without doors, and the occupant must be visible at all times.
- (2) Only one person may be in a viewing booth at a time.
- (3) Walls separating booths must be such that the occupants cannot engage in sexual activity.
- (4) Each booth must be kept clean and sanitary.
- (5) Minimum lighting requirements must be maintained.

(Ord. No. 150, § 6, 7-27-1999)

#### **Sec. 4-94. Adult use, accessory.**

- (a) *Permitted locations.* Adult use, accessory, shall be permitted in the B-3 highway business district and the L-1 light industrial districts, provided that the accessory use conforms with the provisions of this division. Adult use, accessory, shall:
  - (1) Comprise no more than ten percent of the floor area of the establishment in which it is located.
  - (2) Comprise no more than 20 percent of the gross receipts of the entire business operation.
  - (3) Not involve or include any activity except the sale or rental of merchandise.
- (b) *Separation of areas.* Adult use, accessory, shall be restricted from, and prohibit access to, minors, by physically separating the following and similar items from areas of general public access:
  - (1) Movie rental display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view of, and under the control of, the persons responsible for the operation.
  - (2) Magazines or publications classified as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
  - (3) Other adult uses not specifically cited shall comply with the intent of this article.
- (c) *Advertising.* Adult use, accessory, shall be prohibited from both internal and external advertising and signing of adult materials and products.



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(Ord. No. 150, § 6, 7-27-1999)

**Secs. 4-95—4-110. Reserved.**

## ***ARTICLE III. TOBACCO PRODUCTS<sup>2</sup>***

### ***DIVISION 1. GENERALLY***

#### **Sec. 4-111. Purpose.**

- (a) To reduce the illegal sale, possession, and use of tobacco, tobacco products, and tobacco-related devices to and by minors in the county.
- (b) To further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391, and to comply with the mandates of Minn. Stat. § 461.12, requiring license and regulation of tobacco sales.

(Ord. of 6-9-1998, § 1)

#### **Sec. 4-112. Definitions and interpretations.**

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly-accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:

*Compliance checks* means the system the (county, city, or township) uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco-related devices are following and complying with the requirements of this article. Compliance checks shall involve the use of minors as authorized by this article. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco-related devices for educational, research, and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco products, and tobacco-related devices.

*Individually packaged* means the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually-wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

*Loosies* means the common term used to refer to a single or individually-packaged cigarette.

*Minor* means any natural person who has not yet reached the age of 18 years.

*Moveable place of business* means any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

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<sup>2</sup>Cross reference(s)—Environment, ch. 6.

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*Retail establishment* means any place of business where tobacco, tobacco products, or tobacco-related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

*Sale* means any transfer of goods for money, trade, barter, or other consideration.

*Self-service merchandising* means open displays of tobacco, tobacco products, or tobacco-related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco-related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco-related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

*Tobacco or tobacco products* means any substance or item containing tobacco leaf including, but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine-cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug-cut, crimp-cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking. (Note: This definition expands on the statutory definition to be more inclusive. See Minn. Stat. § 609.685.)

*Tobacco-related devices* means any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

*Vending machine* means any mechanical, electrical or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco-related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco-related device.

(Ord. of 6-9-1998, § 2)

Cross reference(s)—Definitions generally, § 1-2.

**Secs. 4-113—4-125. Reserved.**

*DIVISION 2. LICENSE REGULATIONS*

**Sec. 4-126. License.**

- (a) *Required.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco-related device without first having obtained a license to do so from the county.
- (b) *Application.* An application for a license to sell tobacco, tobacco products, or tobacco-related devices shall be made on a form provided by the county. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the county deems necessary. Upon receipt of a completed application, the county administrator shall forward the application to the county board of commissioners for action at its next regularly-scheduled board meeting. If the county administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.
- (c) *Action.* The county board may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the county board shall approve the license, the county administrator shall issue the license to

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the applicant. If the county board denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision.

- (d) *Term.* All licenses issued under this division shall be valid for one calendar year beginning on the first day of each year and expiring on the last day of each year. New licenses may be issued any time in the year and fees shall be prorated on a calendar year basis.
- (e) *Revocation or suspension.* Any license issued under this division may be revoked or suspended as provided in the violations and penalties section of this article.
- (f) *Transfers.* All licenses issued under this division shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the county board.
- (g) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this division.
- (h) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premise.
- (i) *Renewals.* The renewal of a license issued under this division shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days, but no more than 60 days, before the expiration of the current license.

(Ord. of 6-9-1998, § 3)

#### **Sec. 4-127. Fees.**

No license shall be issued under this division until the appropriate license fee shall be paid in full. The fee for a license under this division shall be as set by resolution of the county board.

(Ord. of 6-9-1998, § 4)

#### **Sec. 4-128. Basis for denial of license.**

The following shall be grounds for denying the issuance or renewal of a license under this division; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the county must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

- (1) The applicant is under the age of 18 years.
- (2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products or tobacco-related devices.
- (3) The applicant has had a license to sell tobacco, tobacco products, or tobacco-related devices revoked within the preceding 12 months of the date of the application.
- (4) The applicant fails to provide any information required on the application or provides false or misleading information.
- (5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding such a license.

(Ord. of 6-9-1998, § 5)

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**Secs. 4-129—4-145. Reserved.**

*DIVISION 3. ADMINISTRATION AND ENFORCEMENT*

**Sec. 4-146. Prohibited sales.**

It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product, or tobacco-related device:

- (1) To any person under the age of 18 years.
- (2) By means of any type of vending machine, except as may otherwise be provided in this article.
- (3) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco-related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco-related device between the licensee or the licensee's employee and the customer.
- (4) By means of loosies as defined in section 4-112 of this article.
- (5) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

(Ord. of 6-9-1998, § 6)

**Sec. 4-147. Vending machines.**

It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products, or tobacco-related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

(Ord. of 6-9-1998, § 7)

**Sec. 4-148. Self-service sales.**

It shall be unlawful for a licensee under this article to allow the sale of tobacco, tobacco products, or tobacco-related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco-related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco-related devices at the time this article is adopted shall comply with this section within 60 days following the effective date of this article.

(Ord. of 6-9-1998, § 8)

**Sec. 4-149. Responsibility.**

All licensees under this article shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco-related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting

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the county from also subjecting the clerk to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

(Ord. of 6-9-1998, § 9)

#### **Sec. 4-150. Compliance checks and inspections.**

All licensed premises shall be open to inspection by the county sheriff's office personnel during regular business hours. From time to time, but at least once per year, the county shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco-related devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated county personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, or tobacco-related devices when such items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

(Ord. of 6-9-1998, § 10)

#### **Sec. 4-151. Other illegal acts.**

Unless otherwise provided, the following acts shall be a violation of this article:

- (1) *Illegal sales.* It shall be a violation of this article for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco-related device to any minor.
- (2) *Illegal possession.* It shall be a violation of this article for any minor to have in his or her possession any tobacco, tobacco product, or tobacco-related device. This section shall not apply to minors lawfully involved in a compliance check.
- (3) *Illegal use.* It shall be a violation of this article for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device.
- (4) *Illegal procurement.* It shall be a violation of this article for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco-related device; and it shall be a violation of this article for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco-related device. This section shall not apply to minors lawfully involved in a compliance check.
- (5) *Use of false identification.* It shall be a violation of this article for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Ord. of 6-9-1998, § 11)

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## Sec. 4-152. Violations.

- (a) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
- (b) *Hearings.* If a person accused of violating this article so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.
- (c) *Hearing officer.* The deputy county administrator shall serve as the hearing officer.
- (d) *Decision.* If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under section 4-153 of this article, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.
- (e) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the jurisdiction of the county in which the alleged violation occurred.
- (f) *Misdemeanor prosecution.* Nothing in this section shall prohibit the county from seeking prosecution as a misdemeanor for any alleged violation of this article.
- (g) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Ord. of 6-9-1998, § 12)

Cross reference(s)—Issuance of citations generally, § 1-14.

## Sec. 4-153. Penalties.

- (a) *Licensees.* Any licensee found to have violated this article, or whose employee shall have violated this article, shall be charged an administrative fine of \$75.00 for a first violation of this article, \$200.00 for a second offense at the same licensed premises within a 24-month period, and \$250.00 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.
- (b) *Other individuals.* Other individuals, other than minors regulated by subsection (c) of this section, found to be in violation of this article shall be charged an administrative fee of \$50.00.
- (c) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco-related devices shall be referred to Blue Earth County Community Corrections for diversion or prosecution.
- (d) *Misdemeanor.* Nothing in this section shall prohibit the county from seeking prosecution as a misdemeanor for any violation of this article.

(Ord. of 6-9-1998, § 13)

## Sec. 4-154. Exceptions and defenses.

Nothing in this article shall prevent the providing of tobacco, tobacco products, or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.

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(Ord. of 6-9-1998, § 14)

## **Chapter 6 ENVIRONMENT<sup>3</sup>**

### ***ARTICLE I. IN GENERAL***

**Secs. 6-1—6-30. Reserved.**

### ***ARTICLE II. LIVESTOCK MANURE MANAGEMENT<sup>4</sup>***

#### ***DIVISION 1. GENERALLY***

##### **Sec. 6-31. Statutory authorization.**

The livestock manure management ordinance, referred to in this article as "article," is adopted pursuant to the authorization and policies contained in Minn. Stat. Chapters 115 and 116 and Minnesota Rules, Chapter 7020, parts 7020.0100-7020.1900, and the planning and zoning enabling legislation in Minn. Stat. Chapter 394.

(Ord. No. 130, § 130.01, 1-4-1994; Ord. of 8-5-2020(1))

##### **Sec. 6-32. Policy.**

- (a) An adequate supply of healthy livestock, poultry, and other animals is essential to the well-being of county citizens and the state. These domesticated animals provide our daily source of meat, milk, eggs, and fiber. Their efficient economic production must be the concern of all consumers if we are to have a continued abundance of high-quality, wholesome food and fiber at reasonable prices.
- (b) Livestock, poultry, and other animals produce manure which may, when improperly stored, transported, or disposed, negatively affect the County's environment and must, therefore, be controlled.
- (c) This article has been promulgated to provide protection against pollution caused by manure from domesticated animals.
- (d) The rules of this article recognize that animal manure provides beneficial qualities to the soil and to the production of agriculture crops.
- (e) This article complies with the policy and purpose of the state in regard to the control of pollution as set forth in Minn. Stat. Chapters 115 and 116. Experience has shown that the environment, residential, and

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<sup>3</sup>Cross reference(s)—Floods, ch. 8; parks and recreation, ch. 12; shoreland zoning, ch. 14; solid waste management, ch. 16; streets, roads, highways and other public places, ch. 18; subdivisions, ch. 20; dedication of street, public utility and environmental corridor easements, § 20-206; utilities, ch. 22; zoning, ch. 24; erosion control, § 24-309; environmental hazard abatement, § 24-312.

<sup>4</sup>Editor's note(s)—An Ord. of Aug. 5, 2020, amended and restated former Art. II, Divs. 1—5, in its entirety to read as herein set out. Former Art. II pertained to similar subject matter and derived Ord. No. 130, §§ 130.01—130.07, 1-4-1994; Ord. No. 100, § 6, 6-8-1996; Ord. of 3-24-1998; Ord. of 11-24-1998.

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agricultural uses of land can be incompatible. The purpose of this article is to regulate the management of manure and the uses and development of land in the county which may adversely affect the health, safety, and general welfare of the public.

(Ord. of 8-5-2020(1))

### **Sec. 6-33. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All distances, unless otherwise specified, shall be measured horizontally. The terms "person" and "feedlot operator" shall include individuals, businesses, firms, associations, organizations, partnerships, trusts, companies, and corporations.

*Abandoned water well* means a well whose use has been discontinued or which is in such disrepair that its continued use for the purpose of obtaining groundwater is impractical or may be a health hazard.

*Agriculture/agricultural use* means a use primarily related to the cultivation of crops, horticulture, viticulture, forestry, logging, livestock production, aquaculture, bee keeping, or other agricultural practices. The definition includes the sale of raw products but not processing or sale of processed goods.

*Animal feedlot* means a lot or building or combination of contiguous lots and buildings intended for the confined feeding, breeding, raising, or holding of animals 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 this article, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy facilities, swine facilities, beef lots and barns, horse stalls, mink ranches, and domesticated animal zoos shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under this article.

*Animal manure* means poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation, or other materials.

*Animal unit (A.U.)* 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 1,000-pound slaughter steer or heifer.

*Best management practices* means the most effective and practicable means of erosion prevention and sediment control and water quality management practices that are the most effective and practicable means of to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.

*Bluff* means a topographic feature such as a hill, cliff, or embankment meeting all of the following criteria:

- (1) The slope rises at least 15 feet from the toe of the bluff to the top of the bluff;
- (2) The grade of the slope from the toe of the bluff to the top of the bluff averages 30 percent or greater.

*Bluff toe* means the lower point of a bluff where the slope averages less than 18 percent.

*Bluff top* means the higher point of a bluff where the slope averages less than 18 percent.

*Campground* means any area, whether privately or publicly owned, used on a daily, nightly, or longer basis for the placement of three or more camping units for the purpose of people occupying the unit on an overnight basis.



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*Certificate of compliance* means a letter sent before October 23, 2000, by the Minnesota Pollution Control Agency commissioner or the County feedlot pollution control officer to the owner of an animal feedlot or manure storage area stating that the feedlot or manure storage area meets agency requirements.

*Change in operation* means an alteration of the permitted number of animal units, change of animal species, or a change in the construction or operation of an animal feedlot that would affect the storage, handling, utilization, or disposal of animal manure.

*Conditional use* means a use as defined in the Blue Earth County Zoning Ordinance, Chapter 24, as amended.

*Construction short form permit* means a permit issued for an animal feedlot or manure storage area according to Minnesota Rules, Chapters 7020.0505 and 7020.0535, as amended.

*Corrective or protective measure* means a practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal feedlot or manure storage area to a level in conformity with Minnesota Rules, Chapter 7020, as amended.

*County feedlot permit* means a quadrennial permit from the county to the owner or operator of an animal feedlot stating that the feedlot meets the requirements of this article and complies with all other county and Minnesota Rules, Chapter 7020, as amended. A county feedlot permit is issued by the Blue Earth County Property and Environmental Resources Department upon:

- (1) Review and approval of a permit application; and
- (2) Review of manure application records; and
- (3) Review of the feedlot facility.

*Crown of a county ditch* means the top edge of the constructed channel or the crown of the leveled spoil bank, whichever is the greater, for a public drainage ditch as described in Minn. Stats. 103E.021, as amended. A cross section drawing of the crown described in MN Statute is available in the Minnesota Public Drainage Manual, as amended.

*Crown of a private ditch* means the top edge of the constructed channel or the crown of the leveled spoil bank, whichever is the greater.

*Domestic fertilizer* means:

- (1) Animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth; or
- (2) Animal manure that is used as compost, soil conditioners, or specialized plant beds.

*Dwelling* means a building or its portion designed exclusively for residential occupancy. The term does not include hotels, motels, tents, tent trailers, travel trailers, or recreational vehicles.

*Earthen storage basin* means a manure storage area.

*Feedlot* refers to the definition of an animal feedlot.

*Feedlot officer* means an individual employed by the county and is responsible for administering this article.

*Feedlot operator* means an individual, a corporation, a group of individuals, a partnership, joint venture, owner, or any other business entity having charge or control of one or more livestock feedlots, poultry lots, or other animal lots.

*Floodplain* means the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

*Immediate incorporation* means the mechanical incorporation of manure into the soil within 24 hours of manure application.

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*Interim permit* means a permit issued by the Minnesota Pollution Control Agency or the county feedlot officer in accordance with Minnesota Rules, Chapter 7020.0505 and 7020.0535, as amended.

*Liquid manure storage area* means an area where liquid animal manure and process wastewaters are stored or processed. For purposes of this definition, "liquid animal manure" is manure that does not meet the stockpile standard under Minnesota Rules, Chapter 7020.2125, as amended

*Manure storage area* means an area where animal manure or process wastewaters are stored or processed. Short-term and permanent stockpile sites and composting sites are manure storage areas. Animal manure packs or mounding within the animal holding area of an animal feedlot that are managed according to Minnesota Rules, Chapter 7020.2000, as amended, are not manure storage areas.

*National Pollutant Discharge Elimination System (NPDES)* means a permit issued by the Minnesota Pollution Control Agency for the purpose of regulating the discharge of pollutants from point sources, including concentrated animal feeding operations.

*New animal feedlot* means an animal feedlot or manure storage area:

- (1) Constructed, established, or operated at a site where no animal feedlot or manure storage area existed previously; or
- (2) That existed previously and has been unused for five years or more.

*Non-conformity* means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

*Non-farm use* means any use which is not an agricultural use as defined in this chapter or which is not accessory to an agricultural use.

*Open lot* means an outdoor enclosure intended to confine livestock where manure will accumulate and vegetation cannot be maintained. For the purpose of this article, pastures shall not be considered open lots.

*Ordinary high water level* means the boundary of public waters and wetlands and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

*Pastures* means:

- (1) Areas, including winter feeding areas as part of a grazing area, where grass or other growing plants are used for grazing and where the concentration of animals allows a vegetative cover to be maintained during the growing season, except that vegetative cover is not required:
  - a. In the immediate vicinity of supplemental feeding or water devices;
  - b. In associated corrals and chutes where livestock are gathered for the purpose of sorting, providing veterinary services, loading and unloading trucks and trailers, and other necessary activities related to good animal production practices; or
  - c. In associated livestock access lanes used to convey livestock to and from areas of the pasture; or
- (2) Agricultural land:
  - a. Where livestock are allowed to forage during the winter;
  - b. That is used for cropping purposes in the growing season; and

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- c. where the concentration of animals is such that a vegetative cover, whether of grass, growing plants, or crops, is maintained during the growing season, except in the immediate vicinity of temporary supplemental feeding or watering devices.

*Pollution hazard* means an animal feedlot or manure storage area that:

- (1) Does not comply with the requirements of Minnesota Rules, Chapters 7020.2000 to 7020.2225, and has not been issued an SDS or NPDES permit establishing an alternative construction or operating method; or
- (2) Presents a potential or immediate source of pollution to waters of the State as determined by inspection by a County feedlot pollution control officer or agency staff taking into consideration the following:
  - a. The size of the animal feedlot or manure storage area;
  - b. The amount of pollutants reaching or that may reach waters of the state;
  - c. The location of the animal feedlot or manure storage area relative to waters of the state;
  - d. The means of conveyance of animal manure or process wastewater into waters of the state; and
  - e. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal manure or process wastewater into waters of the state.

*Public waters* means any waters as defined in Minnesota Statutes, Section 103G.005, Subd. 15, and any lakes or wetlands listed in the State Department of Natural Resources Protected Waters Inventory.

*Regional flood* means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one-percent chance/100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the flood insurance study.

*Sensitive water-supply well* means a well with less than 50 feet of watertight casing and which is not cased below a confining layer or confining materials of at least ten feet in thickness.

*Shoreland* means land located within the following distances from public water:

- (1) One thousand feet from the ordinary high water level of a lake, pond, or flowage.
- (2) Three hundred feet from a river or stream or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater.

*State disposal system permit (SDS permit)* means a State permit that is processed in accordance with Minnesota Rules, Chapter 7001.

*Structure* means anything constructed or erected which requires permanent or temporary location on the ground and shall include advertising devices or other construction or erection with special function or form, except fences, well(s), and walks.

*Uncultivated wetland* means a wetland where the basin and/or surrounding area that abuts its boundary has not been planted with annually seeded crops.

*Unused/abandoned feedlot* means a preexisting animal feedlot that has been abandoned or unused for a period of five years.

*Variance* means a legal method to vary from strict enforcement of an ordinance for a specific property upon a showing of practical difficulty in complying with the official control of the ordinance pursuant to Minnesota Statutes, Chapter 394; or as amended.

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*Waters of the state* means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any of its portions.

*Wetland* means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have a predominance of hydric soils, be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and under normal circumstances, support a prevalence of hydrophytic vegetation as established in Minn. Stats. § 103G.005, Subd. 19. (Ord. of 8-5-2020(1))

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 6-34. Jurisdiction of article provisions.**

The provisions of this article shall apply to all animal feedlots of ten animal units or more and to all areas of the County outside the incorporated limits of municipalities.

(Ord. of 8-5-2020(1))

### **Sec. 6-35. Compliance with article provisions.**

The use of any land for the establishment, expansion, or management of an animal feedlot shall comply with the provisions of this article: Chapter 24, pertaining to zoning; Chapter 14, pertaining to shoreland; and the provisions of Minnesota Rules, Chapter 7020.

(Ord. of 8-5-2020(1))

### **Sec. 6-36. Administration and enforcement of article.**

- (a) The county property and environmental resources department is responsible for the administration and enforcement of this article. The board of commissioners may establish by resolution application, permit, and such other fees necessary to fund the administration and enforcement of this article.
- (b) Any violation of the provisions of this article or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with the approval of variances or conditional use permits, shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this article can occur regardless of whether or not a permit is required for a regulated activity pursuant to this article. A citation or complaint may be issued for each day that a party is in violation of this article.

(Ord. of 8-5-2020(1))

Cross reference(s)—Administration, ch. 2.

### **Sec. 6-37. Interpretation.**

In the interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the public health, safety, and welfare of the citizens of the County by providing for the commonly approved production practices used in the management of animal feedlots.

(Ord. of 8-5-2020(1))

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### **Sec. 6-38. Abrogation and greater restrictions.**

It is not the intent of this article to repeal, abrogate or impair any existing ordinances, rules or statutes. However, when this article is inconsistent with any other ordinance, rule or statute, the ordinance, rule or statute which imposes the greater restriction shall prevail.

(Ord. of 8-5-2020(1))

### **Sec. 6-39. Amendment.**

This article may be amended whenever the public necessity and the general welfare require such amendment by following the procedure specified in this section:

- (1) *Proceedings.* Proceedings for amendment of this article shall be initiated as follows:
  - a. A recommendation of the county planning commission.
  - b. By action of the board of commissioners.
- (2) *Notice of public hearing.* A notice of public hearing containing the date, time and location of the hearing, as well as a description of the proposed amendment, shall be published in the official newspaper of the county at least ten days in advance of the public hearing.
- (3) *Public hearing.* The county planning commission shall hold a public hearing, as published in the official newspaper of the county, and shall make a report of its findings and recommendations on the proposed amendment to the board of commissioners and the zoning administrator within 60 days after the hearing. If no report or recommendation is transmitted by the county planning commission within 60 days after the hearing, the board of commissioners may take action without waiting for such recommendation. Upon the filing of such report or recommendation, the board of commissioners may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the board of commissioners may adopt the amendment or any part in such form as it deems advisable. The amendment shall be effective only if a majority of all members of the board of commissioners concur with its passage.
- (4) *Recording.* Upon the adoption of any ordinance or other official control, including any maps or charts supplemented to or as a part thereof, the county auditor shall file a certified copy with the county recorder or registrar of titles for record. Ordinances, resolutions, maps or regulations filed with the county recorder or registrar of titles pursuant to this article do not constitute encumbrances on real property.

(Ord. of 8-5-2020(1))

### **Sec. 6-40. Non-conformity use.**

- (a) *Generally.* Any use or occupancy which does not conform to the provisions of this article is a nonconformity. A county feedlot permit is required for all non-conforming feedlots.
- (b) *Continued, restored, or abandoned.*
  - (1) A non-conformity may not be enlarged but may be continued in accordance with this section.
  - (2) Any non-conformity which is abandoned, or which is discontinued for a period of one year may not be resumed, and any future use or occupancy of the land shall conform to this article.
- (c) *Alteration or moving.*

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- (1) A non-conformity may be altered, provided that such alterations do not intensify or physically expand or extend the non-conformity.
  - (2) A non-conformity moved to a different location on a single parcel shall be brought into conformance with this article.
  - (d) *Damage or destruction.* When a non-conformity is destroyed by fire or other peril to the extent of 50 percent of its market value as determined by the county assessor, any subsequent use or occupancy of the land or premises shall conform to this article.
  - (e) *Restoration and repair.* A non-conformity may be restored or repaired as follows:
    - (1) To comply with state law and county ordinances;
    - (2) If damaged to an extent less than 50 percent of its market value as determined by the county assessor;
    - (3) To effect repairs and necessary maintenance which are non-structural and incidental to the use or occupancy, provided that such repairs do not constitute more than 50 percent of its market value as determined by the county assessor.

(Ord. of 8-5-2020(1))

#### **Sec. 6-41. Variances.**

- (a) Variances may only be granted in accordance with the provisions of this article, Minn. Stat. Chapter 394 and Section 24-48 of the Blue Earth County Code.
- (b) A variance may not circumvent the general purposes and intent of this article.
- (c) A variance may not be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
- (d) Conditions may be imposed in the granting of a variance to ensure compliance with all federal, state, and county regulations.

(Ord. of 8-5-2020(1))

#### **Secs. 6-42—6-60. Reserved.**

### *DIVISION 2. PERMITTING PROCESS*

#### **Sec. 6-61. Blue Earth County feedlot permit and registration.**

- (a) The landowner, feedlot owner, and operator of a proposed or existing feedlot facility are responsible and shall obtain a county feedlot permit prior to the commencement of a new feedlot or the expansion of an existing feedlot. The permit will specify that the feedlot operation conforms to the requirements of this article. Any use, arrangement, or construction in conflict with an authorized permit shall be deemed a violation of this article and shall be punishable as provided in this article.
- (b) No person shall operate an animal feedlot having ten or more animal units without first obtaining a county feedlot permit when any of the following conditions exist:
  - (1) A new feedlot is proposed where a feedlot did not previously exist.
  - (2) A change in operation of an existing animal feedlot is proposed.

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- (3) A change in ownership, including the transfer of a feedlot operation from one member of a family to another member of the family.
  - (4) An inspection by Minnesota Pollution Control Agency staff or county feedlot officer reveals that the feedlot is creating a potential pollution hazard.
  - (5) Staff of property and environmental resources or the MPCA have a reasonable basis to believe that a provision or provisions of this article are being violated.
- (c) All feedlots of ten animal units or greater shall follow the registration requirements of Minnesota Rules, Chapter 7020.0350, as amended.
  - (d) A new feedlot or the expansion of an existing feedlot shall not exceed a density of 3,000 animal units.
  - (e) A minimum lot area of five acres is required for feedlots with 25 or fewer animal units and without liquid manure storage. A minimum lot area of ten acres is required for all feedlots with liquid manure storage areas and/or greater than 25 animal units.
  - (f) No animal feedlot or manure storage area shall be constructed, located, or operated so as to create or maintain a potential pollution hazard.
  - (g) Feedlot animal unit calculations shall be determined using the factors of the following table:

| Animal Type                       | Animal Unit Factor | Animal Type                       | Animal Unit Factor    |
|-----------------------------------|--------------------|-----------------------------------|-----------------------|
| Dairy—mature cow over 1,000 lbs.  | 1.4                | Horse                             | 1.0                   |
| Dairy—mature cow under 1,000 lbs. | 1.0                | Sheep or Lamb                     | 0.1                   |
| Dairy—heifer                      | 0.7                | Chickens—with liquid manure       | 0.033                 |
| Dairy—calf                        | 0.2                | Chickens—broilers 5 lbs. and over | 0.005                 |
| Beef—slaughter steer/stock cow    | 1.0                | Chicken—broiler under 5 lbs.      | 0.003                 |
| Beef—feeder cattle                | 0.7                | Chickens—layers 5 lbs. and over   | 0.005                 |
| Beef—cow and calf pair            | 1.2                | Chickens—layers under 5 lbs.      | 0.003                 |
| Beef—calf                         | 0.2                | Turkeys—over 5 lbs.               | 0.018                 |
| Veal—calf                         | 0.2                | Turkeys—under 5 lbs.              | 0.005                 |
| Swine—over 300 lbs.               | 0.4                | Ducks—dry manure system           | 0.01                  |
| Swine—between 55 and 300 lbs.     | 0.3                | Ducks—liquid manure system        | 0.01                  |
| Swine—under 55 lbs.               | 0.05               | Other                             | % of 1,000 lb. animal |

(Ord. of 8-5-2020(1))

**Sec. 6-62. Information required.**

In general, the following information is required for review prior to the issuance of a county feedlot permit:

- (1) An approved construction short form or interim permit application, as provided by the county.
- (2) A map or aerial photo indicating dimensions of feedlot showing all existing homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcropping, roads, wells, topographic contours, and surface water drainage within 1,500 feet of the feedlot.

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- (3) Manure management plan when required by Minn. Rule 7020.2225, as amended.
  - (4) A site plan showing the following information:
    - a. The locations and dimensions of all animal confinement buildings, including outside lots.
    - b. The locations and dimensions of any manure storage facilities, including those not located in a building.
    - c. The location of any well, active or abandoned, and its distance to the nearest confinement building or outside lot.
    - d. The drainage patterns on the site.
    - e. The location of livestock mortality storage.
    - f. Location of roads, driveways, and means of ingress and egress.
    - g. Location of all components of a septic system or holding tank.
  - (5) Method/plan for disposal of dead animals shall be consistent with the state board of animal health regulations.
  - (6) In some instances, because of site specific or operational considerations, the feedlot officer may require additional information.

(Ord. of 8-5-2020(1))

### **Sec. 6-63. Issuance of a feedlot permit.**

The feedlot officer shall issue a county feedlot permit for any animal feedlot that is in compliance with this article.

(Ord. of 8-5-2020(1))

### **Sec. 6-64. Exceptions.**

The following are exceptions to the requirements of this article:

- (1) Animal feedlots within the shoreland district shall be reviewed by the county feedlot officer to determine if a potential pollution hazard exists.
- (2) Temporary uses not exceeding 14 calendar days that involve ten or more animal units shall be submitted to the planning agency for review. If approved by the planning agency, such use may be exempt.
- (3) Feedlots with fewer than ten animal units provided such sites do not create a potential pollution hazard.
- (4) When an owner of a feedlot proposes a change in operation of the facility, the proposed change may proceed without conditional use permit review and approval provided:
  - a. There are no modifications to existing manure storage areas.
  - b. There are no additional manure storage areas.
  - c. There is no change in the animal species.

(Ord. of 8-5-2020(1))



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## **Sec. 6-65. Feedlot permit review.**

The county feedlot officer shall conduct an on-site review of a feedlot operation in the following circumstances to ensure compliance with this article:

- (1) When a new application for a feedlot permit is received.
- (2) When a written complaint has been determined to be valid by the feedlot officer.
- (3) On a random basis of the permitted feedlots each year.
- (4) When a feedlot operator has received a written warning of a potential violation or a written notice of a violation of this article, the following shall apply:
  - a. The initial review shall verify whether all problems have been corrected and that the operation of the feedlot is in compliance with this article.
  - b. The feedlot officer may conduct subsequent reviews of the feedlot operation to ensure that corrective practices are being implemented.
- (5) Those feedlots that have been designated as having the highest potential to pollute may be subject to more frequent review.
- (6) A written review of the feedlot's operation and compliance with this article shall be completed by the feedlot officer each time an on-site review is conducted. The feedlot operator and owner shall be provided with a copy of the review by mailing to the address provided on the annual permit within 30 working days of the on-site visit.

(Ord. of 8-5-2020(1))

## **Sec. 6-66. Feedlot conditional use permit requirements**

A conditional use permit and a County feedlot permit is required when the following conditions exist:

- (1) The proposed expansion or modification of an existing feedlot in the conservation district.
- (2) The proposed modification of an existing feedlot in the shoreland district to mitigate an existing pollution problem.
- (3) An earthen storage basin is proposed for the storage or treatment of animal waste.
- (4) A new feedlot exceeding 100 animal units.
- (5) The expansion of 100 animal units or more of an existing feedlot in the agricultural district.
- (6) When the Minnesota Pollution Control Agency issues a Construction Short Form Permit, an interim permit, a State Disposal System Permit, or a National Pollutant Discharge Elimination System Permit.
- (7) A new feedlot to be located or the expansion of an existing feedlot within one-half mile of a county, municipal, or state park.
- (8) A new feedlot within one-half mile of a municipal boundary is prohibited unless there is a written agreement from the affected municipality.
- (9) A new feedlot of 50 animal units or more or the expansion of an existing feedlot to a cumulative total of 50 animal units or more within two miles of a municipal border.
- (10) Other feedlots as determined by the feedlot officer.

**Sec. 6-67. Standards for conditional use permits.**

The county may impose, in addition to the standards and requirements set forth in this article, additional conditions which the planning commission or board of commissioners consider necessary to protect the public health, safety, and welfare. This may include, but is not limited to, the following conditions:

- (1) Conditional use permits shall be in effect only as long as sufficient land specified for spreading manure is available and being used for such purposes as regulated otherwise by this article.
- (2) All feedlots shall be operated in a manner consistent with the Minnesota Rules, Chapter 7020, and this article.
- (3) The proposal shall meet the lot area requirements of this article.
- (4) The applicant must obtain a Blue Earth County feedlot permit before any animals are placed in the facility.
- (5) If construction is proposed, the applicant shall obtain a Blue Earth County construction permit before building begins and within one (1) year from the date the county board of commissioners approves the conditional use permit. The permit shall be rendered invalid if application for a construction permit is not made within this one-year period. Time extensions for conditional use permits must be obtained within one year of the initial approval by the county board of commissioners subsequent to a public hearing conducted by the planning commission.
- (6) The application of manure shall comply with standards set forth by the Minnesota Pollution Control Agency (MPCA) and the county. The applicant's manure management plan must be reviewed by the operator each year and updated each year and adjusted for any changes in the amount of manure production, manure nutrient test results, and transfer of manure ownership. Records of manure transfer shall be maintained as required by the MPCA. Manure Application Setback Standards for the fields on which the manure is applied shall be followed as required by the MPCA and the county.
- (7) The disposal of livestock mortality shall be consistent with Minnesota Board of Animal Health regulations and the requirements of this article.
- (8) Adequate measures shall be taken to minimize or control offensive odor, fumes, dust, noise, or vibrations so that none of these will constitute a nuisance.
- (9) According to Minn. Stats. § 116.0713, livestock production facilities are exempt from State ambient air quality standards while manure is being removed and for seven days after manure is removed from barns or manure storage facilities. Proper notification is required pursuant to Minn. Stat. § 116.0713.
- (10) All manure storage structures and earthen storage basins shall conform to Minnesota Pollution Control Agency design standards. All plans for manure storage structures and earthen manure storage basins shall be designed, and the plans signed, by a professional engineer licensed in the State of Minnesota or a Natural Resources Conservation Service (NRCS) staff person having NRCS approval authority for the project.
- (11) Within 60 days of completion of any new or modified manure storage area, a professional engineer licensed in the State of Minnesota or a Natural Resources Conservation Service (NRCS) staff person having NRCS approval authority shall provide the county feedlot officer with a signed construction report and certification that the manure storage structure or earthen manure storage basin was constructed to the standards of the approved plans.

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- (12) That the applicant complies with the storm water control requirements established by the Minnesota Pollution Control Agency and Blue Earth County.
  - (13) That Minnesota Pollution Control Agency construction erosion control best management practices be followed until grass is established or the area is utilized as crop acreage.
  - (14) If a shower, restroom, culinary, and/or laundry facilities are to be included with the proposal, a separate wastewater handling system must be designed and constructed to the requirements of Minnesota Rule, Chapter 7080, as amended.
  - (15) When required by the Minnesota Department of Natural Resources, a water appropriations permit shall be obtained by the applicant.
  - (16) Following the approval of a conditional use permit (CUP) to establish a new feedlot, to modify an existing feedlot, or to restock an abandoned feedlot, the county feedlot permit shall become the operating permit.
  - (17) The feedlot operator shall be responsible to maintain compliance with operating conditions listed on the conditional use permit which shall be made part of the feedlot permit by reference.

(Ord. of 8-5-2020(1))

**Secs. 6-68—6-90. Reserved.**

*DIVISION 3. FEEDLOT OPERATING REQUIREMENTS*

**Sec. 6-91. Livestock mortality disposal.**

- (1) Animal mortality boxes shall be located outside of the right-of-way and a minimum of 100 feet from DNR public waters, public drainage ditches, private drainage ditches, and open tile intakes.
- (2) All mortality disposal sites shall be operated at all times in a manner which prevents scavenging and controls vectors.

(Ord. of 8-5-2020(1))

**Sec. 6-92. Feedlot setbacks.**

Newly constructed feedlots and the expansion of existing feedlots will meet the following setback requirements of this article:

- (1) The setback requirements for a dwelling and a feedlot are reciprocal. The distance between a feedlot and a dwelling is measured from the nearest wall of any confinement building, the nearest edge of any manure storage structure, or the nearest fence line of any open confinement lot to the nearest wall of a dwelling. The feedlot-dwelling setback is established as follows:
  - a. Feedlots ten to 50 animal units shall have a minimum setback of 500 feet.
  - b. Feedlots greater than 50 animal units shall have a minimum setback of 1,500 feet.
- (2) Feedlots must be setback 1,500 feet from churches.
- (3) Feedlots must be setback 2,640 feet from county parks.
- (4) Feedlots must be setback 2,640 feet from campgrounds.

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- (5) Feedlots must be setback 1,500 feet from any residential zoning district boundary.
  - (6) Feedlots must be setback 500 feet from wildlife management areas, aquatic management areas, waterfowl production areas, or similar land uses.
  - (7) Feedlots may not be located within the one-percent chance flood area as shown on Federal Emergency Management Agency floodplain map.
  - (8) Feedlots may not be located closer than 200 feet from a sensitive water-supply well. This includes abandoned wells that have not been sealed. Feedlots may not be located closer than 100 feet from all other wells.
  - (9) Feedlots must be setback 100 feet from the crown of a county ditch, the crown of a private drainage ditch, and the center of a county tile line.
  - (10) Feedlots must be setback 50 feet from property lines.
  - (11) In the urban fringe overlay district, all new feedlots and the expansion of existing feedlots over 100 animal units must be setback from a municipality's corporate limits as set forth on the official map delineating the boundaries of that municipality's UFD urban fringe overlay district, as defined in Chapter 24 of the Blue Earth County Code.

(Ord. of 8-5-2020(1))

**Secs. 6-93—6-110. Reserved.**

*DIVISION 4. MANURE MANAGEMENT*

**Sec. 6-111. Manure management education**

- (1) Manure management is a complex issue that is an important part of a feedlot's operation. The best plan for utilizing manure is a specific plan designed with the input of the feedlot operator. Without the feedlot operator's full cooperation and coordination, the implementation of any manure management plan is difficult.
- (2) Feedlot operators and commercial haulers must be aware of the many variables associated with manure management and shall be encouraged to use educational and technical sources to develop an individual manure management plan based upon current best management practices.
- (3) The county feedlot officer shall cooperate with state and federal agencies and industry to make current manure management education publications and a list of independent consultants available to the feedlot operator when applying for a county feedlot permit.

(Ord. of 8-5-2020(1))

**Sec. 6-112. Land application and manure management requirements**

The owner and the operator of any animal feedlot shall be responsible for the transportation, storage, stockpiling, and disposal of all animal manure generated in a manner consistent with the more restrictive provisions of this article and/or Minnesota Rule, Chapter 7020 sections 2010, 2100, 2125, and 2225, as amended.

- (a) Transportation of manure into the county: Any person located outside the jurisdiction of the county that transports manure into the county with the intent of storing or spreading such manure shall comply with all provisions of this article.
- (b) Standards for the transportation of manure: Animal manure hauled on federal, state, or local highways, roads, or streets must be hauled in such a way as to prevent manure from leaking, spilling, or otherwise being deposited in the right-of-way. Manure deposited on a public roadway must be removed and properly disposed of by the feedlot owner, feedlot operator, or hauler of the manure.
- (c) Manure storage: New concrete manure storage pits shall provide a minimum of nine months' storage capacity. Animal manure, when utilized as domestic fertilizer, shall not be stored for longer than one year.
- (d) Land application of manure: Land application of manure shall comply with the regulations set forth in Minnesota Rules, Chapter 7020.2225, as amended.
- (e) Any animal manure not utilized as domestic fertilizer shall be treated or disposed of in accordance with all applicable regulations.
- (f) Manure application setbacks for all feedlots.

The land application of manure shall be setback as follows:

| Setback From the Following Physical Features/Structures | Spreading Without Incorporation | Injection or Incorporation Within 24 Hours | Irrigation |
|---|---------------------------------|--|------------|
| Streams or rivers                                       | 300 feet                        | 50 feet                                    | 300 feet   |
| Lakes   | 300 feet                        | 50 feet                                    | 300 feet   |
| Uncultivated Wetlands                                   | 300 feet                        | 50 feet                                    | 300 feet   |
| Public and private drainage ditches                     | 300 feet                        | 50 feet                                    | 300 feet   |
| Surface tile inlets                                     | 300 feet                        | 50 feet                                    | 300 feet   |
| Water wells   | 200 feet                        | 200 feet                                   | 200 feet   |
| Sinkhole  | 300 feet                        | 50 feet                                    | 300 feet   |
| Residential dwellings                                   | 500 feet                        | 300 feet                                   | 1,000 feet |
| Public roads (right-of-way line)                        | 25 feet                         | No application into the ditch              | 300 feet   |
| Floodplain  | Prohibited                      | Allowed when above setbacks are met        | Prohibited |
| Mines & quarries  | 50 feet                         | 50 feet                                    | 50 feet    |
| Frozen soils 6% or greater slope                        | Prohibited                      | Prohibited                                 | Prohibited |

(Ord. of 8-5-2020(1))

**Secs. 6-113—6-130. Reserved.**

### *DIVISION 5. FEEDLOT CLOSURE/ABANDONMENT*

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**Sec. 6-131. Owner and operator's responsibility.**

Upon abandonment, termination, or non-renewal of any permit or certificate necessary to operate a feedlot or failure to operate the feedlot in any manner consistent with this article or with State and/or Federal regulations, the owner and operator of any feedlot shall remain responsible for all costs of closure, cleanup, or other costs necessary to bring the property into compliance with all federal, state, and county regulations and to restore the property to a suitable use.

- (a) Within one year of ceasing operation, remove and land apply manure and manure contaminated soils from manure storage areas and animal holding areas. Closure shall include the removal of the sludge from the bottom of any manure storage areas and its disposal by proper land application or by other legally permissible method.
- (b) Prior to the abandonment of or discontinuation of an animal feedlot and/or manure storage structure, the owner shall notify in writing the Blue Earth County Property and Environmental Resources Office. Notification must be submitted seven days prior to commencement of abandonment.

(Ord. of 8-5-2020(1))

**Secs. 6-132—6-160. Reserved.**

***ARTICLE III. WATER SUPPLY WELLS***

***DIVISION 1. GENERALLY***

**Sec. 6-161. Title and short title of article.**

- (a) *Title.* The county ordains the Blue Earth County Water Supply Well Ordinance.
- (b) *Short title.* This article shall be known and may be cited and referred to as the "Well Ordinance," and when referred to, it shall be known as "this article."

(Ord. No. 220, § I, 5-1-2000)

**Sec. 6-162. Statutory authority of article.**

This article regulating the construction, reconstruction and sealing of water wells is adopted pursuant to the authorization and policies contained in Minn. Stats. ch. 103I.111, Minn. Stats. § 145A.05, subd. 8 and Minn. Stats. § 145A.07 and the specific provisions contained in the state department of health delegation agreement with the county.

(Ord. No. 220, § I, 5-1-2000)

**Sec. 6-163. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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*Approved* means acceptable to the county as determined by conformance to state and county standards and good public health practices.

*Board of health* means the board of commissioners established under the authority of Minn. Stats. ch. 145A.

*Contaminant* means any physical, chemical, biological or radiological substance in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water; or the presence in the water of certain infectious agents capable of causing disease in humans and animals.

*County* means the county, the board of commissioners, and its representatives who are authorized by the board of commissioners to administer and enforce this article.

*Domestic use* means the use of groundwater for human needs as it relates to health and sanitation.

*Emergency conditions* are exceptional circumstances where a delay in starting construction or sealing of a well poses an immediate and significant danger to health or safety and there is no time or the unavailability of a well inspector for prior notification or for obtaining the required permit. Exceptional circumstances include, but are not limited to, cases where well failure will leave livestock or persons without drinking water, where inaction presents an imminent threat to contamination of the well or groundwater, or collapse or erosion of the geologic formations.

*Groundwater* means water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined or perched conditions, in near-surface unconsolidated sediment or regolith, or rock formations deeper underground.

*Law* means federal, state and local statutes, ordinances, rules and regulations.

*Maintenance permit* means an annual permit issued by the county for a well that is not in use and has not been sealed, to allow that well to be retained for future use. Maintenance permits shall not be approved for wells that pose a threat to the groundwater or are a potential health or safety hazard and may be issued only for wells meeting the criteria of official policies established by the state department of health.

*Owner* means any person having a legal interest in real or personal property, or any person in possession or control of real or personal property, excluding any person whose interest is for security only.

*Person* means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.

*Reconstruction* means work which includes the modification of the well casing, well diameter, or well depth below the upper termination of the well casing.

*Repairs* means those activities required to restore to use a well or water system that requires replacement of defective, cracked, unserviceable or corroded components other than the well casing. Repairs may be made on precoded wells as long as the repairs meet the standards of the rules in effect when the repairs are made.

*Unused, unsealed water well* means a well whose use has been discontinued, or which is in such disrepair that its continued use for the purpose of taking water is impractical, presents a threat to groundwater quality, or is a potential health or safety hazard.

*Upper termination of well casing* means a point 12 or more inches above the established ground surface or the uppermost termination of the well casing if located in a well pit or basement offset.

*Water supply well* means as given in Minn. Stats., § 1031.005, subd. 21, hereafter called wells. Those types of wells regulated by this article are delineated in the delegation agreement between the state department of health and the county.

*Well contractor and contractor* means any person, firm, partnership, association or corporation, who is licensed by the state to construct, reconstruct, seal or repair a well.

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*Well inspector* means the certified well inspectors of the county environmental services department.

*Well permit* means a written document issued by the county allowing the construction, reconstruction, maintenance or sealing of a well.

(Ord. No. 220, § II, 5-1-2000)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 6-164. Purpose of article.**

The purpose of this article shall be to provide minimum standards for the regulation of wells through a local permit and inspection program. That program will ensure that wells and water supplies are constructed or reconstructed in accordance with Minn. Rules to provide a safe source of drinking water for the consumer, and to protect the groundwater supplies for all users through proper construction, reconstruction and the proper sealing of unused/abandoned water wells.

(Ord. No. 220, § III, 5-1-2000)

### **Sec. 6-165. Objectives of article.**

- (a) *Groundwater protection.* The protection of groundwater quality is essential for the promotion of public health, safety, general welfare, and is critical for socioeconomic growth and development. Protection of groundwater is the highest priority in the county water plan. A comprehensive permit and inspection program has been established to enforce minimum standards for the placement, design, construction and sealing of wells to prevent contamination of groundwater.
- (b) *Well sealing.* Another objective of this article is to continue efforts to identify and locate old unused wells and get them sealed.
- (c) *Groundwater appropriation.* There shall be enforcement of the state department of natural resources water appropriation permit program to provide for the appropriate utilization of the groundwater resource by large users.
- (d) *Comprehensive county program.* The county shall provide a countywide environmental control program through the regulation of wells which complements other existing county programs, including on-site sewage treatment, land use regulation, feedlot permitting, and solid and hazardous waste regulation.

(Ord. No. 220, § III, 5-1-2000)

### **Sec. 6-166. Scope of article.**

This article shall regulate the design, construction, reconstruction and sealing of any water supply well used:

- (1) As a private well;
- (2) As part of a noncommunity water system as defined in 40 CFR 141.2 (e.g., wells serving schools, parks, motels, restaurants);
- (3) For irrigation;
- (4) For agricultural, commercial or industrial water supply; and



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- (5) For heating or cooling, including groundwater thermal exchange devices, as defined in Minn. Stats. § 1031.005, but excluding vertical heat exchangers as defined in Minn. Stats. § 1031.005, which are not wells.

(Ord. No. 220, § III, 5-1-2000)

### **Sec. 6-167. Jurisdiction of article provisions.**

The jurisdiction of this article shall apply to all the area of the county, irrespective of municipal or township boundaries. This article shall not apply to municipal and community wells which are regulated by the state department of health, nor remedial wells, nor other types of wells or borings not specifically delineated in the delegation agreement.

(Ord. No. 220, § III, 5-1-2000)

### **Sec. 6-168. Interpretation.**

When interpreting and applying the provisions of this article, the provision which is most restrictive and which requires the higher standard for the promotion of public health, safety and general welfare shall prevail.

(Ord. No. 220, § III, 5-1-2000)

### **Secs. 6-169—6-190. Reserved.**

## *DIVISION 2. ADMINISTRATION AND ENFORCEMENT<sup>5</sup>*

### **Sec. 6-191. Administration by the county; authority.**

Under the authority of the board of health, the well inspectors of the environmental services department are responsible for the administration of this article. The staff is hereby given the authority to make inspections and perform tasks necessary for the performance of this duty; to order the suspension of any work being done in violation of the provisions of this article; and to prohibit the use of any material or operation of any machinery in violation of the provisions of this article.

(Ord. No. 220, § V, 5-1-2000)

### **Sec. 6-192. Permit.**

- (a) *Required.* A permit shall be obtained from the environmental services department before a well, defined in section 6-163, is constructed, reconstructed or sealed. Work shall not begin without first making application for and obtaining the permit from the county for each specified well or type of well contracting activity. No permit shall be required for repairs or for pump installation under the terms of this article. No well construction permit that will allow replacement of an existing well shall be issued until provisions have been made for the proper sealing or maintenance of the replaced well in accordance with applicable regulations or standards.

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<sup>5</sup>Cross reference(s)—Administration, ch. 2.

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- (b) *Application.* The application for the permit shall be made in writing and signed by the well contractor, except the well owner shall obtain and sign required maintenance permits. Required applications shall be submitted, fees paid and the permit issued prior to any construction, reconstruction or sealing work commencing. Application shall be made on forms provided by the county.
  - (c) *Termination.* The county may deny any permit application or renewal, or suspend or revoke any permit for violation of this article by the applicant or permittee, or other person, when the county has reason to believe such violation will infringe on the purpose and/or objectives of this article. All well construction, reconstruction and sealing permits issued by the county shall expire after one year unless permitted work is in progress.
  - (d) *Emergency permit.* Where an emergency situation exists, as defined in subsection 6-197(c), and the well work proceeded without the required permits or notification for inspections, the contractor shall submit the required permit application and all fees to the well inspectors within two working days.

(Ord. No. 220, § V, 5-1-2000)

### **Sec. 6-193. Fees.**

The board of commissioners shall, by resolution, establish fees for permits required by this article. The total fee payable will consist of:

- (1) The county permit fee established by board of commissioners resolution; and
- (2) The state core function fee established by the state legislature.

Permit fees are due and payable at the time of permit application. The county fees may be doubled for well work commenced prior to issuance of the required permit.

(Ord. No. 220, § V, 5-1-2000)

### **Sec. 6-194. Other permits.**

The county, a city or township within the county shall not issue a building, remodeling, alteration or demolition permit for buildings or facilities associated with or affecting a water well unless and until any permits required by this article have been approved.

(Ord. No. 220, § V, 5-1-2000)

### **Sec. 6-195. Variances.**

- (a) A request for a variance from specific requirements contained in Minn. Rules ch. 4725, must be submitted and acted upon by the state department of health pursuant to Minn. Rules, 4717 and 4725. The county shall provide comments and/or recommendations to the state department of health on each variance request. If the request for a variance is approved by the state department of health, the county shall accept that decision and allow the construction, reconstruction or sealing to proceed pursuant to any conditions of that approval.
- (b) A request for a variance from any other provisions of this article that are not subject to the review of the state department of health shall be submitted in writing to the county for review and disposition by the board of health.

(Ord. No. 220, § V, 5-1-2000)

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**Sec. 6-196. Availability of public water supplies.**

No well construction permit shall be issued where a public or municipal water supply is available unless the municipality or public water supply operator authorizes the county to issue such permit. The criteria for determining availability of public or municipal water supply shall be made by the municipality or public water supply operator.

(Ord. No. 220, § V, 5-1-2000)

**Sec. 6-197. Inspection requirements.**

- (a) *Authority.* Inspections for the construction, reconstruction and the sealing of wells shall be conducted by a well inspector. Upon request of the county, the applicant, permittee and any other person shall allow access at any reasonable time to the affected property. No person shall hinder and otherwise interfere with the county staff in the performance of their duties and responsibilities pursuant to this article. Refusal to allow reasonable access to the county staff shall be deemed a separate and distinct offense of this article, whether or not any other specific violations are cited.
- (b) *Notification.* It shall be the duty of the well contractor to provide timely notification with a reasonable lead time, but at a minimum of at least one hour, to the well inspectors for inspections:
  - (1) When construction, reconstruction or sealing will begin.
  - (2) When drilling is under way.
  - (3) When grouting a well under construction will begin.
  - (4) When the well has been completed and is ready to be sampled.
  - (5) When perforation, casing removal or obstruction removal will begin.
  - (6) When grouting or sealing a well.
- (c) *Emergency.* Where an emergency exists, as defined in section 6-163, or other circumstances prevent notice for an inspection, including weekends or holidays, the contractor/permittee may proceed and shall notify a well inspector on the next normal working day. The contractor may be required to file an affidavit with the county that the work was completed in accordance with all the provisions of this article and the permit and that it is free from defects. The contractor shall also include a detailed as-built plan of the well's components, geological, grouting and other pertinent information, including grout type and weight, of the work that was completed without the required inspections.

(Ord. No. 220, § V, 5-1-2000)

**Sec. 6-198. Water well records.**

All copies of the state department of health water well records shall be submitted by the water well contractor to the county within 30 days of completion of the well construction, reconstruction or sealing.

(Ord. No. 220, § V, 5-1-2000)

**Sec. 6-199. Enforcement procedures.**

Under the state department of health delegation agreement, the county has assumed all the responsibility for regulating wells which includes enforcement of Minn. Stats. ch. 103I and Minn. Rules, ch. 4725 as well as the

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provisions of this article. Enforcement procedures are to be applied in an escalating manner. The following methods of enforcement are authorized for use by the environmental services department:

- (1) *Verbal orders.* Well inspectors may issue verbal orders for the correction of errors, omissions and violations noted during inspections for immediate correction. Documentation may be through notes on the inspection report or a formal letter to the violator.
- (2) *Stop work orders.* Whenever any work is being done contrary to the provisions of this article, the county may order the work stopped by verbal or written notice personally served upon the contractor or well owner or their representatives. All construction or sealing work shall cease and desist until subsequent authorization to proceed is received from the county.
- (3) *Notice of violation.* Unresolved and either separate, recurrent or continuing violations of this article by the applicant, permittee or other persons as determined by inspections, reinspection or investigations shall constitute nonconformance or noncompliance with this article. This may be cause to issue a notice of violation. A written notice of violation shall be served by mail and/or facsimile and/or by personal service upon the applicant, permittee, contractor or other person found to be in violation of this article. A notice of violation shall, at a minimum, contain the following:
  - a. A statement documenting the finding of fact through inspections, reinspection or investigations;
  - b. A list of specific violations of this article;
  - c. The specific requirements of correction or removal of such violations;
  - d. A mandatory time schedule for correction, removal and compliance with this article; and
  - e. Specific enforcement actions that may be taken if corrective action is not completed.
- (4) *Recovery of state bond.* Licensed well contractors are required by Minn. Stats. § 1031.525, subd. 5 to maintain a corporate surety bond conditioned to pay the state on unlawful performance of work regulated by Minn. Stats. ch. 103I and Minn. Rules, ch. 4725. The county will request recovery, through the state department of health, of the state bond for violations that remain unresolved. Before a request for bond recovery is initiated, the county will:
  - a. Not seek recovery unless and until it is proven by a fair preponderance of evidence, that the contractor is responsible for the existence of a violation of Minn. Rules, ch. 4725; and
  - b. The contractor has been given a reasonable opportunity to correct the violation before the county proceeds against the bond.
- (5) *Criminal penalties.* Any person who shall violate any of the provisions of this article, or who shall fail to comply with any of the provisions of this article, or who shall make any false statement in any document required to be submitted under the provisions of this article, shall constitute a misdemeanor, unless state law provides for gross misdemeanor or felony penalties, in which case state penalties shall supersede county ordinance penalties.

(Ord. No. 220, § V, 5-1-2000)

**Secs. 6-200—6-220. Reserved.**

### *DIVISION 3. STANDARDS*

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**Sec. 6-221. Adopted by reference.**

This article hereby adopts by reference Minn. Rules, ch. 4725, Wells and Borings, and all subsequent amendments, including official Minnesota Department of Health policies relating to the administration and interpretation of the rule provisions. This Minn. Rules chapter 4725 is adopted according to and in conjunction with Minn. Stats. ch. 103I, relating to wells, borings and underground uses.

(Ord. No. 220, § IV, 5-1-2000)

**Sec. 6-222. Water quality standards.**

- (a) The following water quality standards shall apply as the minimum standard for potability of wells and the acceptability of the water bearing formation. Bacteriological standard shall be zero total coliform bacteria per 100 milliliters utilizing the membrane filter method or less than 2.2 per 100 milliliters utilizing the most probable number method. Other comparable and acceptable methods of bacteriological testing may be utilized. For the purposes of this article, the presence of only noncoliform bacteria in a water sample shall not necessarily be indicative of contamination, but may be cause for the county to require additional testing of the water supply, whether or not disinfection is required, to determine the presence or absence of fecal indicator and/or pathogenic microorganisms.
- (b) When a new well is constructed, if the nitrate nitrogen level exceeds 10.0 milligrams per liter (mg/l) the well is unacceptable for human consumption. If the nitrate nitrogen concentration is greater than 3.0 mg/l but less than 10.0 mg/l, the well contractor must obtain a signed statement of acceptance from the well owner stating they understand that the desirable level of nitrate nitrogen is less than 1.0 mg/l. Forms for such statement will be provided by the county and a copy must be submitted with the completed well record to the county.

(Ord. No. 220, § IV, 5-1-2000)

**Sec. 6-223. Unused, unsealed wells.**

- (a) The county staff is authorized to take steps necessary to locate and identify unused, unsealed wells and specify corrective actions. In addition, the county is required to conduct investigations of wells identified through the well disclosure process mandated by Minn. Stats. ch. 103I and to adequately resolve the status of those wells.
- (b) Minn. Rules, ch. 4725 and Minn. Stats. ch. 103I, governs, except as provided otherwise in this article. For the purposes of enforcement of this article, a well is defined as an unused, unsealed well if any of the following conditions exist:
  - (1) Use of the well has been replaced by another well or a new well or use of the well has otherwise been terminated and is not under an annual maintenance permit.
  - (2) The well is unusable or is not equipped with an operable pump with connection to a power supply. A power supply is interpreted to be any source of power including electricity (electric pumps), wind power (windmills), mechanical power (internal combustion engines), human power (hand pumps) etc.
  - (3) A flowing artesian well which is allowed to run unrestricted only for the purpose of maintaining wetland condition or to serve as a source of water for wildlife.

(Ord. No. 220, § IV, 5-1-2000)

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**Sec. 6-224. Maintenance permits.**

- (a) Owners of existing wells that are defined as an unused, unsealed well may request a maintenance permit from the county. These permits must be renewed annually on or before January 15 of each year. A maintenance permit will allow the well to be maintained without being sealed, provided that it does not present a groundwater, safety or health hazard, as defined by law, and meets the policy criteria for issuance of maintenance permits propagated by the state department of health, titled "Criteria for Water Well Maintenance Permits," dated March 1997, and any subsequent changes.
- (b) Any well which is issued a maintenance permit pursuant to this section may be sampled and/or inspected by the county to determine compliance with the conditions of the annual permit at a frequency determined by the county.

(Ord. No. 220, § IV, 5-1-2000)

**Sec. 6-225. Public nuisance.**

The existence of an unused, unsealed well is a threat to groundwater quality and poses a public health threat for potable water supplies. Therefore, pursuant to Minn. Stats. § 1031.111, subd. 6, an unused, unsealed well that is not sealed and is not under an annual maintenance permit, is declared to be a public nuisance and may be abated as such.

(Ord. No. 220, § IV, 5-1-2000)

**Sec. 6-226. Well capacity and water line sizing.**

- (a) Newly constructed residential wells shall be constructed with a minimum nominal capacity in accordance with the following table:

| Number of Homes | Well Capacity in GPM (gallons per minute) |
|-----------------|---|
| 1 to 2 homes    | 10 each home                              |
| 3 to 5 homes    | 5 each home + 10                          |
| 6 to 14 homes   | 3 each home + 20                          |

- (b) Water lines shall provide at peak flow:
  - (1) No more than five psi of friction loss per 100 feet of pipe length;
  - (2) A minimum pressure of 20 psi to the plumbing fixture at the highest elevation; and
  - (3) Water service lines for one home shall be a minimum of one inch in diameter. When lengths are more than 150 feet or when more than one home will be served, larger diameter lines must be provided.
- (c) No water line shall be installed through or allowed to come into direct contact with known sources of contamination. Water lines extending through standing animal manure stored in pits or lagoons must be protected in a manner acceptable to the county.
- (d) Water line sizing not addressed in this article shall be governed by the state plumbing code and appendices thereto.

(Ord. No. 220, § IV, 5-1-2000)

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**Sec. 6-227. Use of existing wells for new construction.**

An existing well may be used as a water supply for any new building if the well is constructed to meet the minimum standards of this article, or an existing well which does not meet the minimum construction standards required by this article may be used as a water supply if:

- (1) The water quality meets the health standards established by this article; and
- (2) The continued use of the well will not present a threat to the quality of the groundwater or present a safety hazard.

(Ord. No. 220, § IV, 5-1-2000)

**Secs. 6-228—6-250. Reserved.**

***ARTICLE IV. RESERVED<sup>6</sup>***

**Secs. 6-251—6-340. Reserved.**

***ARTICLE V. SUBSURFACE SEWAGE TREATMENT SYSTEMS<sup>7</sup>***

***DIVISION 1. GENERALLY***

**Sec. 6-341. Scope of article.**

This article authorizes and provides for sewage treatment and sub-surface soil dispersal in unsewered areas of the county. It establishes:

- (1) Minimum standards for, and regulation of, individual sewage treatment systems (ISTS) and mid-sized subsurface sewage treatment systems (MSTS) (collectively referred to as subsurface sewage treatment systems—SSTS) in unsewered incorporated and unincorporated areas of Blue Earth County. These standards incorporate, by reference, minimum standards established by Minnesota Statutes and administrative rules of the Minnesota Pollution Control Agency;
- (2) Standards for upgrade, repair, replacement, or abandonment of SSTS;

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<sup>6</sup>Editor's note(s)—Ord. of March 26, 2013, Div. 14, § 9.0, repealed former Art. IV, Divs. 1—4, in its entirety which pertained to individual sewage treatment and derived from Ord. No. 200, §§ 1—6, adopted Feb. 27, 1998; Ord. No. 210, §§ 1—3, adopted Feb. 27, 2001.

<sup>7</sup>Editor's note(s)—Ord. of 4-27-2021, adopted April 27, 2021, repealed the former Art. V, §§ 6-341—6-346, §§ 6-351—6-357, §§ 6-371—6-392, §§ 6-411—6-419, §§ 6-431—6-439, §§ 6-451—6-466, §§ 6-481—6-484, §§ 6-501—6-508, §§ 6-521, 6-522, §§ 6-531, 6-532, §§ 6-541, 6-542, §§ 6-551—6-556, §§ 6-571—6-580, enacted a new Art. V as set out herein. The former Art. V pertained to the same subject matter. Please see the Code Comparative Table for a full derivation.

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- (3) Standards which promote the health, safety and welfare of the public as reflected in Minn. Stats. §§ 115.55, 145A.05, 375.51, 394.21—394.37, and 471.82, the county comprehensive land use plan, the county water management plan, the county zoning and shoreland ordinances;
  - (4) Requirements for issuing permits for installation, alteration, repair or expansion of SSTS;
  - (5) Requirements for all SSTS permitted under the revised Minn. Rules, Chs. 7080 and 7081 to be operated under an approved management plan;
  - (6) Requirements for septic compliance inspections;
  - (7) Provisions for enforcement of these requirements; and
  - (8) Penalties for failure to comply with these provisions.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-342. Purpose.**

The purpose of this article is to establish minimum requirements for regulation of SSTS for the treatment and subsurface dispersal of sewage within the applicable jurisdiction of the county to protect public health and safety, groundwater quality, and reduce or prevent the development of public nuisances. It is intended to serve the best interests of the county's citizens by protecting their health, safety, general welfare, and natural resources.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-343. Intent.**

It is intended by Blue Earth County that this article will promote the following:

- (1) The protection of lakes, rivers, and streams, wetlands, and groundwater in Blue Earth County. These water resources are essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the county.
- (2) The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants into surface water or groundwater, 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, thus preventing contamination into surface water or groundwater. If SSTS contamination is discovered, identification, control and the abatement of its source will be taken to prevent 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 complaint investigations to assist in the prevention and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

(Ord. of 4-27-2021, Att. A-2)



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### **Sec. 6-344. Authority.**

The ordinance from which this article derives is adopted pursuant to Minn. Stats. §§ 115.55, 145A.01 through 145A.08, 375.51; or successor statutes, and Minn. Rules, Chs. 7080, 7081, 7082, 7083 or successor rules.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-345. Effective date.**

The provisions set forth in this article shall become effective on May 1, 2021.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-346. Definitions.**

The following words and phrases shall have the meanings ascribed to them in this article. If not specifically defined in this article, terms used in this article shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this article, the words "must" and "shall" are mandatory and the words "may" and "should" are permissive.

*Authorized representative:* An employee or agent of Blue Earth County.

*Bedrock:* Geologic layers of which greater than 50 percent by volume consist of weathered or unweathered in-place consolidated rock or rock fragments. Bedrock consists of igneous, metamorphic and sedimentary rock. Bedrock includes sandstone formations such as the St. Peter or Jordan Formations that may be in a semiconsolidated state.

*Cesspool:* An underground pit, receptacle, or seepage tank that receives sewage directly from a building sewer and leaches sewage into the surrounding soil, bedrock, or other soil materials.

*Class V injection well:* A shallow well used to place a variety of fluids directly below the land surface. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. EPA registration is required on all Class V injection wells. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

*Cluster system:* A SSTS under some form of common ownership that collects wastewater from two or more dwellings or commercial properties and conveys it to a subsurface treatment and dispersal system located on an acceptable site near the dwellings or buildings. All cluster systems serving multiple dwellings are also classified as EPA Class V injection wells.

*County:* Blue Earth County, Minnesota.

*County board:* The Blue Earth County Board of Commissioners.

*Department:* The Blue Earth County Environmental Services Department.

*Design flow:* The daily volume of wastewater for which an SSTS is designed to treat and subsurface dispersal.

*Domestic strength waste:* Waste typical of a residential source with average influent concentrations no greater than: BOD5 170 mg/l, TSS 60mg/l and Oil and Grease 25 mg/l or effluent values equal to or less than treatment level C.

*Failure to protect groundwater:* At a minimum, a seepage pit, drywell, leaching pit, or other pit receiving septic tank effluent; a SSTS with less than the required vertical separation distance, described in Minn. Rules, Ch. 7080.1500 Sub. 4 D and E; and a system not abandoned in accordance with part Minn. Rules, Ch. 7080.2500 are considered to be an SSTS that does not protect groundwater.

*Imminent threat to public health or safety:* At a minimum, a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; a cesspool; or sewage tanks with unsecured, damaged, or weak maintenance access covers are considered to be an imminent threat to public health or safety.

*ISTS:* An individual sewage treatment system having a design flow of no more than 5,000 gallons per day.

*Industrial waste:* Sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined under the standard industrial classification (SIC) codes established by the U.S. Office of Management and Budget.

| SIC CODE(S) | INDUSTRY CATEGORY  |
|-------------|--|
| 753—7549    | Automotive Repairs and Services  |
| 7231,7241   | Beauty Shops, Barber Shops   |
| 7211—7219   | Laundry Cleaning and Garment Services  |
| 4011—4581   | Transportation (Maintenance only)  |
| 8062—8069   | Hospitals  |
| 2000—3999   | Manufacturing  |
| 2000—2099   | Food Products  |
| 2100—2199   | Tobacco Products   |
| 2400—2499   | Lumber and Wood Products, except Furniture   |
| 2500—2599   | Furniture and Fixtures   |
| 2600—2699   | Paper and Allied Products  |
| 2700—2799   | Printing, Publishing, and Allied Industries  |
| 2800—2899   | Chemicals and Allied Products  |
| 2900—2999   | Petroleum Refining and Related Industries  |
| 3000—3099   | Rubber and Miscellaneous Plastics  |
| 3100—3199   | Leather Tanning and Finishing  |
| 3200—3299   | Stone, Clay, Glass, and Concrete Products  |
| 3300—3399   | Primary Metal Industries   |
| 3400—3499   | Fabricated Metal Products (except Machinery, and Transportation Equipment                                      |
| 3500—3599   | Industrial and Commercial Machinery and Computer Equipment   |
| 3700—3799   | Transportation Equipment   |
| 3800—3899   | Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks |
| 3900—3999   | Miscellaneous Manufacturing Industries   |

*Malfunction:* The partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.

*Management plan:* A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure SSTS

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performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

*Minor repair:* The repair or replacement of an existing damaged or faulty component or part located in an SSTS that will return the SSTS to its original operable condition. The repair shall not alter the original area, dimensions, design, specifications, wastewater/sewage source(s) or concept of the SSTS.

*MSTS:* A mid-sized subsurface sewage treatment system under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

*Municipal utilities:* Means infrastructure required by a city when properties are annexed into a city, or infrastructure available from a township or other utility district such as a sanitary sewer district. (Zoning Chapter of Code)

*Notice of noncompliance:* A written document issued by the department notifying a SSTS owner that the owner's SSTS has been identified to be noncompliant with the requirements of this article.

*MPCA:* Minnesota Pollution Control Agency.

*Other establishment:* Any public or private structure other than a dwelling or a portion of a dwelling used for any business purpose that generates sewage which discharges to a SSTS.

*Qualified employee:* An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual's employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

*Record drawings:* A set of drawings which, to the fullest extent possible, document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.

*Restrictive layer:* Layer in the soil treatment system area as shown by redoximorphic features, altered structure, bedrock, or a geologic aquifer formation.

*Sewage:* Waste from toilets, bathing, laundry, or culinary activities or operations, or floor drains associated with these sources, including household cleaners, and other constituents in amounts normally used for domestic purposes.

*Shoreland:* The land located within the following distances from public waters:

- (1) One thousand feet from ordinary high-water mark of a lake, pond, or flowage; and
- (2) Three hundred feet from a river or stream; or
- (3) The landward extension of a designated floodplain, whichever is greater.

*SSTS:* Subsurface sewage treatment system; Including an ISTS, MSTS or LSTS.

*State:* The State of Minnesota.

*Transfer of property:* The act of a party by which the title of property is conveyed from one person, party, or entity to another. The sale and every other method, direct or indirect, of disposing or parting with property, or with an interest therein, or with the possession thereof, absolutely or conditionally, voluntarily, by or without judicial proceeding as a conveyance, sale, gift, or otherwise.

*Treatment level:* Treatment system performance levels defined in Minn. Rules, Ch. 7083.4030 which include, but are not limited to the following:

*Level A:*  $cBOD_5 \leq 15 \text{ mg/L}$ ;  $TSS \leq 15 \text{ mg/L}$ ; fecal coliforms  $\leq 1,000/100 \text{ mL}$ .

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*Level B:* cBOD<sub>5</sub> ≤ 25 mg/L; TSS ≤ 30 mg/L; fecal coliforms ≤ 10,000/100 mL.

*Level C:* BOD<sub>5</sub> ≤ 170mg/L, cBOD<sub>5</sub> ≤ 125 mg/L; TSS ≤ 60 mg/L; Oil & Grease 25 mg/L.

*Type I system:* An ISTS that utilizes a standard trench, bed, at-grade, mound, or graywater system design in accordance with Minn. Rules, Chs. 7080.2200 through 7080.2240.

*Type II system:* An ISTS with acceptable modifications or a sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils, lots in floodplains, and lots using privies or holding tanks.

*Type III system:* An ISTS that uses soil to treat sewage but does not meet the tank, size or distribution requirements for a Type I system. Type III systems are designed for use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

*Type IV system:* An ISTS, with an approved pretreatment device, which uses pressure distribution and timed dosing.

*Type V system:* An ISTS, with a custom engineered design, which does not meet the prescriptive designs for Types I—IV. Type V systems must meet the public health and safety standards of Minn. Rules, Ch. 7080.1500 and accommodate the site, taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and any other relevant soil, site, and wastewater characteristics, such that groundwater contamination is prevented.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-347—6-350. Reserved.**

***DIVISION 2. GENERAL PROVISIONS FOR SUBSURFACE SEWAGE TREATMENT SYSTEMS***

**Subdivision I. In General**

**Sec. 6-351. Scope.**

This article regulates the siting, design, installation, alteration, 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, holding tanks, and other non-water carried SSTS. All sewage generated in unsewered areas of the county shall be properly treated and dispersed to the soil by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this article or by a SSTS that has been permitted by the MPCA.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-352. Jurisdiction.**

The jurisdiction of this article shall include all lands of the county except for incorporated areas or sanitary sewer districts that are served by municipal utilities or areas that administer a subsurface sewage treatment system (SSTS) program by ordinance within their jurisdiction, which is at least as strict as this article and has been

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approved by the county. The department shall keep a current list of local jurisdictions within the county administering a SSTS program.

(Ord. of 4-27-2021, Att. A-2)

## **Subdivision II. Administrative Requirements**

### **Sec. 6-353. County administration.**

The county property and environmental resources department shall administer the SSTS program and all provisions of this article. At appropriate times, the department shall review, revise and update this article as necessary. The county shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-354. State of Minnesota.**

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, the owner or owners shall make application for and obtain a state disposal system (SDS) permit from the MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a SDS permit is required. SSTS serving establishments or facilities licensed or otherwise regulated by the state shall conform to the requirements of this article.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-355. Cities and townships.**

Any jurisdiction within the county that regulates SSTS must comply with the standards and requirements of this article. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this article. The standards and ordinance of any other jurisdiction may not be administratively or technically less restrictive than this article.

(Ord. of 4-27-2021, Att. A-2)

## **Subdivision III. Validity and Liability**

### **Sec. 6-356. Validity.**

The validity of any part of this article shall not be affected by the invalidity of any other parts of this article where the part can be given effect irrespective of any invalid part or parts.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-357. Liability.**

Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the

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defective construction, operation, or abandonment of any onsite SSTS regulated under this rule by reason of standards, requirements, or inspections authorized hereunder. This protection should be provided only against claims where the county employees or its agents act under the authorities expressly given to the county by statutes or adopted ordinances. If county employees or its agents assume authorities not expressly assigned to the county, the courts might not extend the limits of liability to include such actions.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-358—6-370. Reserved.**

*DIVISION 3. GENERAL REQUIREMENTS*

**Subdivision I. Retroactivity**

**Sec. 6-371. All SSTS.**

Except as explicitly set forth in section 6-372, all provisions of this article shall apply to any SSTS regardless of the date it was originally permitted.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-372. 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 expiration date or until a change in system ownership, whichever is earlier.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-373. SSTS on lots created before January 23, 1996.**

All lots created prior to January 23, 1996, must have a minimum of one soil treatment and dispersal area that can support a Type I system as described in Minn. Rules, Chs. 7080.2200 through 7080.2230 or site conditions described in Minn. Rules, Ch. 7081.0270, Sub. 3. Any proposed expansion of an existing building site, which can support a secondary drainfield location, should consider not disturbing or negatively impacting that area by additional development in order to allow for a future drainfield location.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-374. SSTS on lots created after January 23, 1996.**

All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support Type I systems as described in Minn. Rules, Ch. 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Sub. 3. The area must be based on a minimum design flow of 600 gallons per day or the equivalent to a four-bedroom Class I house and the secondary drainfield area must not be disturbed or negatively impacted by development.

(Ord. of 4-27-2021, Att. A-2)

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**Sec. 6-375. Existing SSTS without permits of record.**

Existing SSTS with no permits of record shall require a compliance inspection prior to the issuance of any permit pertaining to the property. This compliance inspection shall determine the status of the SSTS and timeline for the system to be brought into compliance with the requirements of this article.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-376. Easement agreements for SSTS.**

An easement agreement, signed by all parties, must be recorded with Blue Earth County Recorder's office for all cluster systems and any SSTS which is partially or completely located on a neighboring parcel. This includes situations where parcels have common ownership.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-377. Short term rental units serviced by SSTS.**

All short-term rental units serviced by SSTS must meet both of the following requirements.

- (1) The SSTS must meet the sizing factor of 75 gallons per day per guest.
- (2) The rental unit must have a valid commercial operating permit.

(Ord. of 4-27-2021, Att. A-2)

## **Subdivision II. Upgrade, Repair, Replacement, and Abandonment**

**Sec. 6-378. Capacity expansions.**

- (a) Expansion of an existing SSTS must include any SSTS upgrades necessary to bring the entire SSTS into compliance with the prevailing provisions of this article at the time of expansion.
- (b) Gravel-less pipe expansions must be sized appropriately with septic alteration permits and new dwelling connections.
- (c) Expansions or changes to a SSTS with gravel-less pipe drainfield require a septic alteration permit to ensure the drainfield is sized appropriately. Altered systems with existing gravel-less pipe is required to meet the recommendations of the MPCA Design Guidance.
- (d) All SSTS upgrades for any SSTS size increase must be completed within ten months of any building permit increasing the design flow.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-379. Requirements within other permits.**

- (a) Any noncompliant SSTS must be upgraded or abandoned within the required timeline if a land use permit is required.
- (b) Prior to issuance of a building permit which increases the number of bedrooms in a dwelling; the applicant must submit a compliance inspection for any existing SSTS portion to be left in use and a design for all

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portions of the SSTS requiring a size increase. The new SSTS installation must be upgraded to the standards of this article.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-380. Failure to protect groundwater.**

A SSTS that is determined not to be protective of groundwater in accordance with Minn. Rules, Ch. 7080.1500, Subp. 4B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this article within 24 months of the date of inspection. Any deviations in timeframe from this provision of this article must be by written resolution from the county board.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-381. Imminent threat to public health or safety.**

A SSTS that is determined to be an imminent threat to public health or safety in accordance with Minn. Rules, Ch. 7080.1500, Subp. 4. A. shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this article within ten months of the date of inspection, or within a shorter time frame as stipulated by additional written correspondence from the county.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-382. Abandonment.**

Any SSTS, or any component thereof, which is no longer intended to be used for sewage, must be abandoned in accordance with Minn. Rules, Ch. 7080.2500.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-383. Property owner responsibility.**

All costs associated with the repair, replacement, or abandonment of a failing/noncompliant SSTS shall be the responsibility of the property owner or as otherwise provided for in a written, notarized agreement between two parties.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-384. SSTS upgrade required.**

A SSTS on property sold or transferred to new owners, shall be repaired, replaced, or upgraded as determined by a compliance inspection, records search, or other means acceptable to the department. The compliance inspection must be conducted prior to ownership transfers. The determination of responsible party to repair, replace, or upgrade the system should proceed in a manner that does not needlessly delay or otherwise interfere with the property sale transaction. If repair, replacement, or upgrade is not done or formally agreed upon at time of sale, the responsibility of upgrade is solely the responsibility of the buyer. Delay in requirements to repair, replace or upgrade will not occur due to a dispute of liability.

(Ord. of 4-27-2021, Att. A-2)



### **Subdivision III. Floodplains**

#### **Sec. 6-385. SSTS in floodplains.**

A SSTS shall not be in a floodway as defined in Minn. Rules, Ch. 7080.1100 Subp. 34 and wherever possible, location within any part of a floodplain as defined in Minn. Rules, Ch. 7080.1100 Subp. 33 should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe as defined in Minn. Rules, Ch. 7080.1100 Subp. 32 is allowed if the requirements in Minn. Rules, Ch. 7080.2270 and all relevant local requirements are met.

(Ord. of 4-27-2021, Att. A-2)

### **Subdivision IV. Injection Wells**

#### **Sec. 6-386. Injection wells.**

All owners of new or replacement SSTS that are classified as EPA Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all EPA Class V injection wells as part of the property transfer disclosure process.

(Ord. of 4-27-2021, Att. A-2)

### **Subdivision V. Practitioner Licensing**

#### **Sec. 6-387. SSTS practitioner licensing.**

- (a) No person shall engage in SSTS site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minn. Rules, Ch. 7083 except as exempted in Minn. Rules, Ch. 7083.0700.
- (b) A homeowner (defined as an owner of and residing as primary residence in the home in question) may construct a SSTS which is to treat wastewater solely from their own dwelling or seasonal dwelling if:
  - (1) A site evaluation and a Type I, Type II or Type III system design are obtained from an appropriately licensed practitioner;
  - (2) They have attended an MPCA approved SSTS installation/construction training course; and passed the exam; and
  - (3) They sign an agreement indemnifying the county against claims due to the failure of the owner to comply with the provisions of this article, expense for corrective actions, or responsibility for any improper construction practices resulting in necessary repairs or reconstruction.

(Ord. of 4-27-2021, Att. A-2)

### **Subdivision VI. Prohibitions.**

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**Sec. 6-388. 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 or any structure with sewage generating devices, or any business to operate that is not serviced by a SSTS that disposes of sewage in a manner that complies with the provisions of this article.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-389. Sewage discharge to ground surface or surface water.**

It is unlawful for any person to construct, maintain, or use, or allow to be used any SSTS regulated under this article that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water by any conveyance. Any SSTS which has a discharge to the surface must be permitted under the National Pollutant Discharge Elimination System (NPDES) program by the MPCA.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-390. 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. Rules, Ch. 4725.2050, or any other excavation in the ground that is not in compliance with this article.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-391. Discharge of hazardous or deleterious materials.**

It is unlawful for any person to discharge into any SSTS regulated under this article any hazardous or harmful material that adversely affects the treatment or dispersal performance of the SSTS or groundwater quality. Products containing hazardous waste must not be discharged to a SSTS, other than in normal amounts of household products and cleaners designed for household use. Substances not intended for use in household cleaning, including but not limited to; solvents, pesticides, flammables, photo finishing chemicals, paint, and dry-cleaning chemicals must not be discharged to the SSTS. Other unused products or substances, or unused medicines, must not be discharged to the SSTS solely as a disposal method.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-392. Floor drains from garages.**

Floor drains from garages servicing dwellings, vehicle maintenance business or any other floor drain that has the potential to introduce hazardous waste into the SSTS, must not be connected to the SSTS.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-393. Drainage devices.**

Footing or roof drainage and chemically treated hot tub or pool water must not be discharged into any part of the SSTS.

(Ord. of 4-27-2021, Att. A-2)

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**Sec. 6-394. High strength waste.**

Only domestic strength waste shall be discharged to a SSTS. Sewage tank effluent with a waste strength higher than domestic strength waste shall be pre-treated to a level equal to or less than domestic strength waste prior to final treatment and disposal in a SSTS.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-395—6-410. Reserved.**

*DIVISION 4. SSTS STANDARDS*

**Sec. 6-411. System standards generally.**

- (a) The county hereby adopts by reference Minn. Rules, Chs. 7080 and 7081 in their entirety as now constituted and from time to time amended with the additional standards set forth in this article. This adoption does not supersede the county's right or ability to adopt local standards that are in compliance with Minn. Stats. § 115.55.
- (b) All SSTS installation must protect groundwater in a manner that eliminates potential groundwater contamination and reduces impacts of Nitrogen to groundwater.
- (c) All new lots created after January 23, 1996 must have, at minimum, the ability for two Type I systems designed for 600 gallons per day flow. The use of any other type of SSTS is considered secondary to these minimum requirements.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-412. Type I systems.**

- (a) Type I systems are trenches, beds, at-grades and mounds. Each type I SSTS must be capable of maintaining a depth of 36 inches of unsaturated soil for treatment and be of prescribed size for water absorption.
- (b) Type I SSTS must be designed and installed according to Minn. Rules, Chs. 7080.2200—7080.2240 to be considered a Type I system.
- (c) Type I SSTS cannot be used in soils with a loading rate less than 0.24 gallons per day, per square foot for new construction.
- (d) Must meet all requirements for design, soil, installation, and inspection.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-413. Type II systems.**

- (a) Type II SSTS are trenches, beds, at-grades, mounds, holding tanks or privies.
- (b) For trenches, beds, at-grades, mound type systems, they must be capable of maintaining a depth of 36 inches of unsaturated soil for treatment and be of prescribed size for water use, water absorption in areas of rapidly permeable soil or floodplains.

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- (c) Type II SSTS must be designed and installed according to Minn. Rules, Chs. 7080.2270—7080.2290 to be considered a Type II system.
  - (d) Type II SSTS cannot be used in soils with a loading rate less than 0.24 gallons per day, per square foot for new construction.
  - (e) Holding tanks may be used under the following:
    - (1) Sewage holding tanks may be authorized as a temporary use for existing seasonal cabins or existing year-round dwelling units in instances where a suitable SSTS area is not available to service the structure. In no case shall a construction permit be issued for a new seasonal cabin or new year-round dwelling unit, or for the expansion of a seasonal cabin or dwelling unit, which will be not connected to a SSTS consisting of a septic tank and drainfield or other approved SSTS, or secondary treatment device complying with this article, or sanitary sewer district.
    - (2) Holding tanks may be authorized for use in accessory structures that are used on an intermittent basis and when connection to a compliant SSTS is not feasible or is impractical due to the limited use of the building.
    - (3) Must meet all requirements for design, permitting, installation, and inspection.
    - (4) The owner is responsible to maintain a valid pumping contract with a licensed septic maintainer. A contract must be presented to the department at the time of permit application and shall be maintained if the holding tank is present.
  - (f) Privies shall only be considered for accessory structures without a water supply.
    - (1) Pit privies shall not be installed where the bottom of the pit is less than three feet above the saturated soil or bedrock. A vault privy shall be used in areas not meeting the three-foot separation.
    - (2) A vault privy shall be constructed in the same manner as sewage tanks in accordance with Minn. Rules, Chs. 7080.1900—7080.1920.
    - (3) Must meet all requirements for design, soil, permitting, installation, and inspection.
    - (4) Abandoned privies shall have the solids removed and be filled with clean earthen materials. Removed solids must be handled in accordance to all local, state and federal regulations.
    - (5) Must meet all requirements for design, soil, permitting, installation, and inspection.
- (Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-414. Type III systems.**

- (a) Type III SSTS are trenches, beds, at-grades and mounds. Each type III SSTS must be capable of maintaining a depth of 36 inches of unsaturated soil for treatment.
- (b) Type III SSTS must be designed and installed according to Minn. Rules, Ch. 7080.2300 to be considered a Type III system.
- (c) Type III SSTS cannot be used in soils with a loading rate less than 0.24 gallons per day per for new construction.
- (d) For previously developed sites, if the site cannot accommodate a SSTS sized accordance to Minn. Rules, Ch. 7080.2150, a smaller soil treatment area is allowed to be constructed if it employs flow restriction devices that do not allow loading rates in excess of those in Minn. Rules, Ch. 7080.2150.
- (e) Must meet all requirements for design, soil, installation, and inspection.

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(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-415. Type IV system.**

- (a) Type IV SSTS are trenches, beds, at-grades and mounds that have a registered treatment component designed and added to lower the strength of the waste to be treated by the soil. Each type of system must be capable of maintaining a depth of unsaturated soil relative to the level of treatment and be of prescribed size for water absorption.
- (b) The use of Type IV SSTS will be considered secondary to any Type I systems that rely solely on soil treatment. Type IV SSTS may only be used in a manner consistent with the county comprehensive land use plan and the county water management plan in its entirety.
- (c) Type III SSTS must be designed and installed according to Minn. Rules, Ch. 7080.2350 to be considered a Type IV system.
- (d) Type IV SSTS cannot be used in soils with a loading rate less than 0.24 gallons per day per square foot cannot be used for new construction.
- (e) Type IV SSTS cannot be used for new construction.
- (f) Type IV systems can be used on previously developed sites only when a Type I, Type II, or Type III SSTS cannot be installed.
- (g) Type IV systems may be required due to waste strength where secondary treatment is necessary to utilize soil treatment. These conditions may preclude the use of Type I, II, or III systems. Type IV systems shall be approved for installation when all requirements of Minn. Rules, Ch. 7080.2350 met.
- (h) Type IV performance requirements:
  - (1) Non-domestic, "other establishments" may require Type IV systems to obtain at a minimum, domestic strength waste in order to allow for adequate soil treatment.
  - (2) At a minimum, the performance of the entire system must protect underground sources of drinking water according to Minn. Rules, Ch. 4717 and protect surface waters according to Minn. Rules, Ch. 7050 (see Minn. Rules, Ch. 7082.0100, Subp. 4. A). All application of Type IV performance-based treatment will meet or exceed treatment levels established in Minn. Rules, Ch. 7080.2350 and be proven by routine monitoring, as required in an annual operating permit.
- (i) Must meet all requirements for design, soil, installation, and inspection.
- (j) Type IV systems must fulfill all requirements of an operating permit for the SSTS.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-416. Design standards.**

All SSTS's must be designed by a licensed septic system designer and approved by the department prior to beginning any construction of the system. The design must incorporate all design standards in Minn. Rules, Chs. 7080 or 7081.

- (1) The minimum design standard for construction shall be a Class I - Two-bedroom single family dwelling, design flow as listed in Minn. Rules, Ch. 7080.1860.

- (2) The minimum septic tank design for installation shall consist of one compartmentalized septic tank or two or more individual septic tanks. The pump/dosing tank is not considered to be a septic tank and shall not be considered as one of these tanks.
- (3) The soil characteristics must be assessed, recorded and submitted with the design as per requirements found in Minn. Rules, Chs. 7080 or 7081. There must be inclusion of soil descriptions, a determination of loading rate and absorption area sizing for approval.
  - a. Prior to design approval, the soil characteristics must be verified by a state certified individual representing the department.
  - b. The minimum diameter of a soil probe used to appropriately assess the soil characteristics for systems designed under 7080 must be 1¼ inches. A soil pit may be required to assess soils based on conditions present on a site in question.
- (4) Any design with a soil loading rate less than or equal to 0.24 gallons per day per square foot must employ pressure distribution which uses time dosing or flow restrictions to limit the loading rate to less than 0.24 gallons per day per square foot into the soil treatment area.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-417. Installation standards.**

All SSTS's must be installed as prescribed in the approved design. Any deviations from design must be evaluated by the designer and approved by the department. All SSTS installation must meet standards set forth in Minn. Rules, Ch. 7080 and 7081.

- (1) In the construction of trenches, the bottom of the distribution media must be at a minimum depth of eight inches or two inches greater than the sidewall of rock/slat height/gravelless pipe diameter, whichever is greater. At no time in the construction of a trench system will the final elevation of the distribution portion of the distribution media be equal to or above the original ground surface.
- (2) In the construction of beds, the bottom of the distribution media must be at a minimum depth of six inches. At no time in the construction of a bed system will the final elevation of the distribution portion of the distribution media be equal to or above the original ground surface.
- (3) In the construction of any soil treatment area, in no case shall the bottom of the distribution medium be deeper than 36 inches from final grade.
- (4) Center feed SSTS drainfield must have cleanouts extended to grade, at the end of each lateral, for proper maintenance of the SSTS.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-418. Minimum setback requirements.**

All SSTS's must conform to all state and local setbacks as applicable, including Minn. Stats. Ch. 103 I, Minn. Rules, Chs. 4725 and 4720. The location of SSTS will follow all design and setback requirements as it pertains to structures, property boundaries, topographic features, and property utilities (specifically the utilities of water supply lines or wells). The minimum setback requirements for SSTS design and installation are as follows:

Setbacks as established in Minn. Rules, Ch. 7081.0270. (As Amended)

| Setbacks       | Setback Distance (feet) |
|----------------|-------------------------|
| Sensitive Well | 100                     |

|                                      |    |
|--------------------------------------|----|
| Deep Well                            | 50 |
| Septic Drainfield from any Structure | 20 |
| Septic Tank from any Structure       | 10 |
| Property Line*                       | 10 |

\*If it appears that any part of the proposed SSTS will encroach on an existing or new property line, a survey performed by a licensed land surveyor is required to show that the ten-foot property line setback will be met.

Setbacks as established in Minn. Rules, Ch. 6120.3400. (As Amended)

| Setbacks                       | Setback Distance (feet) |
|--------------------------------|-------------------------|
| Natural Environment Lakes      | 150                     |
| Recreational Development Lakes | 75                      |
| General Development Lakes      | 50                      |
| Transitional Rivers            | 100                     |
| Agricultural Rivers            | 75                      |
| Tributary Streams              | 75                      |

Additional Blue Earth County Setbacks

| Setbacks                             | Setback Distance (feet) |
|--------------------------------------|-------------------------|
| Dry Creek Bed                        | 50                      |
| Wetland                              | 50                      |
| Stormwater Pond                      | 50                      |
| Any Drainage Ditch                   | 50                      |
| Perforated Tile Line                 | 20                      |
| Non-perforated Tile Line             | 10                      |
| Eroding Bluff                        | 75                      |
| Non-eroding Bluff                    | 20                      |
| Road Right-of-Way                    | 10                      |
| Waterline                            | 10                      |
| Geothermal Vertical/Horizontal Units | 10                      |

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-419. Maintenance.**

All SSTS's are required to be maintained in accordance to Minn. Rules, Chs. 7080.2450 and 7081.0290 when applicable.

- (1) All septic and holding tanks must be assessed and evaluated by an MPCA licensed SSTS maintainer and provide for the removal of solids, if needed, at a minimum of every three years. Solids must be removed when their accumulation meets the limit described in Minn. Rules, Ch. 7080.2450.
- (2) All land application of septage must be done in accordance with all local, state and federal rules.

(Ord. of 4-27-2021, Att. A-2)

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**Secs. 6-420—6-430. Reserved.**

*DIVISION 5. COMPLIANCE MANAGEMENT*

**Subdivision I. Compliance Management Required**

**Sec. 6-431. Compliance.**

Sewage discharged from a dwelling, structure, or other establishment that is not serviced by municipal utilities under permit by the MPCA or EPA must be treated in accordance with the applicable requirements and standards of this article.

(Ord. of 4-27-2021, Att. A-2)

**Subdivision II. Compliance Inspection Program**

**Sec. 6-432. Department responsibility.**

It is the responsibility of the department or its agent, to perform various SSTS compliance inspections to assure that the requirements of this article are met.

- (1) SSTS compliance inspections must be performed:
  - a. To ensure compliance with applicable state and local requirements;
  - b. For all new SSTS construction or SSTS upgrade, repair or replacement;
  - c. For any expansion or modification to the building(s) sewer that may impact the performance of the SSTS.
- (2) All compliance inspections must be performed and signed by an MPCA licensed inspection business or by a qualified employee of the department certified as an inspector by the MPCA.
- (3) The inspector shall be given access to enter a property at any reasonable time to inspect the SSTS or to assess the validity of any complaints or suspicion of discharge of sewage. As used in this paragraph, "property" does not include the interior of a residence or private building.
- (4) No person shall hinder or otherwise interfere with the department's employees in the performance of their duties and responsibilities pursuant to this article. Refusal to allow reasonable access to the property by the department shall be deemed a separate and distinct offense.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-433. Property owner responsibility.**

It is the responsibility of the property owner or agent representing the property owner to submit a SSTS compliance inspection as required which assures that the requirements of this article are met.

- (1) SSTS compliance inspections must be performed:



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- a. By an appropriately licensed septic contractor. Type IV SSTS or any other SSTS with flows over 2,500 gallons per day must be inspected by an individual holding a valid intermediate or advanced SSTS certification as outlined in Minn. Rules, Ch. 7083.0700, as amended.
  - b. For all required types of property transfer, a compliance inspection must be completed and submitted to the department before time of sale.
  - c. A compliance inspection report or certificate of compliance must be submitted before issuance of any building permit, conditional use permit, interim use permit, variance, map amendment, shoreland alteration permit, any division or combination of parcels, or any other permit issued by the planning agency. If the inspection requires the upgrade or replacement of any portion of the SSTS, a design plan must be submitted to the department in order to obtain a building permit, conditional use permit or variance. The inspection may be delayed if the permit application is made during the period when a compliance inspection is not able to be completed due to frozen ground; November 15 to April 15. A compliance inspection must be performed and submitted before the following June 1. The upgrade timeline and submittal of a design, if necessary, will be dictated by the outcome of the inspection.
- (2) If the property owner chooses to forgo the expense of a compliance inspection, they must disclose any known information about the septic system on a form acceptable to the department with the understanding that the SSTS must be abandoned or a new code compliant SSTS installed within ten months of signing the form.

(Ord. of 4-27-2021, Att. A-2)

#### **Sec. 6-434. New construction or system upgrade, repair or replacement.**

A SSTS constructed and inspected meeting all requirements of Minn. Rules, Chs. 7080 and 7081 (where applicable), and all requirements of this article shall be considered compliant.

- (1) Compliance inspections must be performed on new, replacement, upgraded or repaired SSTS's to determine compliance with Minn. Rules, Chs. 7080 and 7081.
- (2) It is the responsibility of the SSTS owner or the owner's agent to notify the department 24 hours prior to any permitted work on the SSTS.
- (3) A certificate of compliance for new SSTS construction or replacement must be issued by the department once the department has reasonable assurance that the SSTS was built in accordance with all applicable requirements.
- (4) The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is compliant or non-compliant with the requirements of this article.
- (5) Certificates of compliance for new construction or SSTS replacement shall remain valid for five years from the date of final inspection unless the department finds evidence of noncompliance.
- (6) During SSTS construction if the SSTS is determined to be out of compliance with the applicable requirements, a notice of noncompliance must be issued to the owner or owner's agent by the inspector. This notice must include a statement specifying the provisions with which the SSTS does not comply. This will be provided to the property owner within 15 days of inspection. Any notice of noncompliance on a newly constructed SSTS must be corrected within 30 days from issuance. No certificates of compliance will be issued until all requirements are satisfied.

(Ord. of 4-27-2021, Att. A-2)

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## Sec. 6-435. Existing systems.

- (a) A compliance inspection or certificate of compliance shall be required when any of the following conditions occur:
- (1) When a permit is required to repair, modify, or upgrade an existing SSTS system, the SSTS must comply with current standards within this article.
  - (2) Before issuance of a construction permit in a non-shoreland area unless the property is served by an existing SSTS that meets subsection a. or b. below:
    - a. The SSTS is on record by permit with the county and meets the following;
      1. Has a current certificate of compliance or has an SSTS that was installed within the last 15 years.
      2. The proposed construction meets the structural setbacks to all existing SSTS components.
    - b. The SSTS has been identified as non-compliant and meets the following:
      1. Is within the replacement timeframe from the inspection notice of noncompliance.
      2. Has an approved design for the replacement SSTS and an additional secondary site for a future replacement SSTS meeting the requirements of this article.
      3. The proposed construction meets the structural setbacks to all existing and proposed SSTS components.
  - (3) Before submittal for any land use development application(s) when any structure connected to a SSTS is within the shoreland overlay district, or any portion of the SSTS itself that is within the shoreland overlay district as defined in Chapter 14, Shoreland Zoning.
  - (4) Before issuance of any conditional use permit, interim use permit, or variance in a non-shoreland area.
  - (5) Any time there is an expansion of use of the building(s) being served by an existing SSTS which may impact the performance of the SSTS expansion of use is defined as an addition of a bedroom(s) or conversion of existing space into a bedroom(s), any additional building(s) connected to an existing SSTS, or any addition of non-residential use within the building(s). The compliance inspection must include the existing size of system; for all tanks, pretreatment (if applicable), and soil treatment area. To be compliant the expansion of use must not exceed the existing system design values.
  - (6) At the time of property sale or property transfer (see section 6-439) including the division or combination of land with existing development.
  - (7) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the SSTS.
  - (8) At any time as required by this article or the department deems appropriate such as upon receipt of a complaint or other notice of a SSTS malfunction.
- (b) Compliance inspections of existing SSTS's shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed or verified in accordance with Minn. Rules, Ch. 7082.0700 (as amended).
- (1) The certificate of compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating the SSTS is in compliance with article requirements. If the SSTS is determined to be out of compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those article provisions with which the SSTS does not comply. A septic

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permit application must be submitted to the department if the required corrective action is not a minor repair prior to initiation of the repair.

- (2) The compliance inspection report per Minn. Rules, Ch. 7082.0700, Subp. 4 C must be submitted to the department no later than 15 calendar days after the date the inspection was performed. The completed form must also be submitted to the owner or owner's agent. The department will issue a certificate of compliance or a notice of noncompliance to the owner of the property. The department will keep on file all submitted compliance inspections.
- (3) Certificates of compliance for existing SSTS's shall remain valid for three years from the date of inspection unless the department finds evidence of noncompliance.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-436. Transfer of properties with existing SSTS.**

- (a) Whenever a conveyance of land upon which a dwelling or structure that requires an SSTS is located occurs, the following requirements shall be met:
  - (1) A compliance inspection report or certificate of compliance must be on file with the department prior to the intended sale or transfer of the property.
  - (2) The compliance inspection report must have been performed by a qualified employee of the department or a licensed inspection business following procedures described in section 6-435.
  - (3) The seller of the property must disclose, in writing, information about the status and location of all known current and former SSTS's on the property to the buyer on a form acceptable to the department.
  - (4) If the seller fails to provide a certificate of compliance, the seller shall provide the buyer sufficient security, in the form of an escrow agreement, to assure the installation of a complying SSTS. The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution. The amount escrowed shall be equal to 110 percent of a written estimate to install a complying SSTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110 percent of the written contract price for the installation of a complying SSTS provided by a licensed and certified installer. After a complying SSTS has been installed and a certificate of compliance issued, the department shall provide the escrow agent a copy of the certificate of compliance to satisfy the escrow account stipulation.
- (b) The compliance portion of the certificate of compliance need not be completed if the sale or transfer involves any of the following circumstances:
  - (1) The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
  - (2) The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this article. This subsection applies only to the original vendor and vendee on such a contract.
  - (3) Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment facility; any dwellings or other buildings that are located within the jurisdiction of a county approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or, any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an SSTS.

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- (4) When title to real property is held jointly by a husband and wife and one spouse becomes deceased and the only change that occurs is to remove the deceased spouse's name from the title.
  - (5) When title to real property is held jointly by a husband and wife and through a divorce decree one of the said parties is removed from the title with the other said party retaining ownership of the property.
  - (6) When title to real property is transferred to a special needs trust or a supplemental needs trust.
- (c) All property conveyances subject to this article occurring during the period between November 15th and April 15th, when SSTS compliance cannot be determined due solely to frozen soil conditions, shall require a winter agreement. This agreement must include a requirement to complete a compliance inspection by the following June 1st by a licensed inspection business and an escrow agreement must be established in accordance with subsection 6-436(c). If the SSTS inspection indicates the system is in compliance, the escrow account may be absolved as the SSTS would not need to be upgraded. If the SSTS inspection indicates the system is noncompliant, a permit application must be submitted, and the SSTS upgraded within the specified timeframe outlined in the notice of noncompliance issued by the county.
  - (d) The responsibility for submittal of the delayed compliance inspection listed in subsection 6-436(c) shall be determined by the buyer and seller. Buyer and seller shall provide the department with a signed statement indicating responsibility for completing the compliance portion of the certification and for upgrading a SSTS found to be noncompliant.
  - (e) Neither the issuance of permits, certificates of compliance, nor notices of non-compliance as required shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the SSTS in question is or has been designed and installed in compliance or noncompliance with the provisions of these standards and regulations.

(Ord. of 4-27-2021, Att. A-2; Ord. of 7-27-2021, Att. A-1)

### **Sec. 6-437. Compliance criteria for existing SSTS.**

- (a) SSTS built before April 1, 1996 outside of areas designated as Shoreland areas, Wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments, as defined under Minn. Rules, Ch. 7080.1100, Subp. 84, must have at least two feet of vertical separation between the bottom infiltrative surface of the dispersal system and the periodically saturated soil and/or bedrock.
- (b) SSTS built after March 31, 1996 or SSTS located in a shoreland area, wellhead protection area, or serving a food, beverage, or lodging establishment, as defined under Minn. Rules, Ch. 7080.1100, Subp. 84, shall have a three-foot vertical separation between the bottom soil infiltrative surface of the dispersal system and the periodically saturated soil and/or bedrock.
- (c) Existing systems, built after March 31, 1996, that have no more than a 15 percent reduction in this separation distance (a separation distance to limiting layer no less than 30.5 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this article.
- (d) The vertical separation measurement verification shall be made immediately outside the area of SSTS influence in similar soil types. All aspects of Minn. Rules, Ch. 7080.1500, Subp. 4, must be included in the determination of compliance.
- (e) If soil verification was completed by the department and documented on the county permit, soil verification may be omitted from the inspection of the SSTS.

(Ord. of 4-27-2021, Att. A-2)

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**Sec. 6-438. Compliance criteria for new construction.**

All SSTS installation, alteration, repair or replacement must be permitted and inspected by a qualified employee of the department.

- (1) Necessary inspections and notification timeframes will be set forth in department policy and ordinance. The information will be made available to all contractors or individuals completing work within the jurisdiction of the county.
- (2) Certificates of compliance for new SSTS shall remain valid for five years unless the department subsequently identifies the SSTS as noncompliant for failure to comply with the conditions of the management plan or operating permit, or the SSTS poses an imminent threat to public health and safety.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-439. SSTS upgrade required determined by inspection.**

- (a) As the result of any inspection the need to upgrade or replace a SSTS will be determined. All compliance timeframes are based from date of inspection, regardless of ownership. The timeframe will be dictated from the original date of inspection regardless of any subsequent inspections.
- (b) SSTS's located on properties sold or transferred to new owners, should be repaired, replaced, or upgraded as determined by a compliance inspection, records search, or other means acceptable to the department prior to ownership transfers. The determination of the need to repair, replace, or upgrade should proceed in a manner that does not needlessly delay or otherwise interfere with the property sale transaction. If repair, replacement, or upgrade is not done or formally agreed upon at time of sale, the responsibility to upgrade is solely the responsibility of the buyer. Delay in the requirements to repair, replace or upgrade will not occur due to a dispute of liability.
- (c) The timeframe to upgrade a SSTS that is classified as "Failing to protect groundwater" shall be made within two years of the compliance inspection identifying it as such.
- (d) The timeframe to expand a compliant SSTS for the purpose of a bedroom addition shall be one year and must be done in conjunction with the building permit.
- (e) The timeframe to upgrade a non-compliant (failure to protect groundwater) SSTS in shoreland, wellhead protection area, or food beverage or lodging establishment shall be one year and must be done prior to or in conjunction with any other required building permit, conditional use permit or variance.
- (f) The timeframe to upgrade, repair, replace, or abandon a SSTS that is classified as an (imminent threat to public health and safety) must be upgraded, repaired, replaced or discontinued from use within ten months of identification or within a shorter time frame as stipulated by additional written correspondence from the department.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-440—6-450. Reserved.***DIVISION 6. SSTS PERMITTING***Subdivision I. Permit Required**

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**Sec. 6-451. Appropriate permit required.**

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit from the department. The issuance of any permit or variance, under the provisions of this article shall not absolve the applicant of their responsibility to obtain any other required permit, nor until fulfillment of the installation and inspection of work done under this permit absolve the applicant of any requirements stated in any other permit or condition.

(Ord. of 4-27-2021, Att. A-2)

**Subdivision II. Notice of Intent to Construct or Repair an SSTS for Multiple Dwellings or Nondomestic Waste****Sec. 6-452. Purpose.**

Any owner or owners of any building(s) servicing multiple families or other nondomestic facilities, which has or will have a wastewater discharge requiring a permit under this article, shall submit a notice of intent to construct or repair a SSTS to the department. The purpose of this notice is to provide the department enough information to inform the submitter of the performance requirements for the proposed SSTS. This section may be circumvented if a design is only for a single-family residential dwelling and is submitted as required in subdivision III of this division.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-453. Required contents.**

The owner shall provide the following information on forms available from or acceptable to the department:

- (1) Owner(s) name and contact information;
- (2) Property tax identification number(s) or address(s) or legal description(s);
- (3) Intended use of the property and buildings;
- (4) Type of wastewater to be treated (e.g., domestic, nondomestic, restaurant, convenience store, industrial, etc.); and
- (5) Projected daily average and projected peak flow volumes of each type or source of wastewater with a specified method of determination.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-454. Department response.**

Within 30 working days of receipt of the notice of intent, the department shall review the notice and determine the specific performance requirements appropriate for the location, nature of the proposed property use, and projected wastewater characteristics in accordance with division 4 of this article. The department shall provide the owner with written preliminary performance, maintenance, monitoring, and reporting requirements for the proposed SSTS.

(Ord. of 4-27-2021, Att. A-2)

### **Subdivision III. SSTS Permit**

#### **Sec. 6-455. Issuance of permit prior to beginning of work.**

A SSTS permit shall be obtained from the department by the property owner or an agent of the property owner prior to the installation, construction, replacement, modification, alteration, repair, or expansion of a SSTS. 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 article by an appropriately certified and/or licensed practitioner(s).

(Ord. of 4-27-2021, Att. A-2)

#### **Sec. 6-456. Activities requiring a SSTS permit.**

A SSTS permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the SSTS, change the source of waste entering the SSTS, change the treatment capacity of the SSTS, change the location of the SSTS, or otherwise change the original SSTS's design, plumbing, layout, or function.

(Ord. of 4-27-2021, Att. A-2)

#### **Sec. 6-457. Activities not requiring a SSTS permit.**

A SSTS permit is not required for minor repairs or replacements of SSTS components that do not alter the original function of the SSTS, does not change the source of waste entering the SSTS, does not change the treatment capacity of the SSTS, does not change the location of the SSTS, nor otherwise change the original SSTS's design, layout, or function.

(Ord. of 4-27-2021, Att. A-2)

#### **Sec. 6-458. SSTS permit required to obtain subsequent permit(s).**

For any property on which a SSTS permit is required, approval and issuance of a valid SSTS permit must be obtained before a building or land use permit may be issued by the department.

(Ord. of 4-27-2021, Att. A-2)

#### **Sec. 6-459. Conformance to prevailing requirements.**

Any activity involving an existing SSTS that requires a permit shall require that the entire SSTS be brought into compliance with this article.

(Ord. of 4-27-2021, Att. A-2)

#### **Sec. 6-460. SSTS permit application requirements.**

A SSTS permit application shall be made by submitting the required information on appropriate forms approved by the department. These forms need to be signed by the applicant and/or an appropriately certified

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professional representing the applicant, including the practitioner's certification number. An application shall include the information and the documents listed in items (1) through (6) below.

- (1) Name, mailing address, telephone number, and optional email address.
- (2) Property identification number and address or other description of property location.
- (3) Site evaluation report as described in Minn. Rules, Ch. 7080.1730.
- (4) Design report as described in Minn. Rules, Ch. 7080.2430.
- (5) Management plan as described in Minn. Rules, Ch. 7082.0600.
- (6) An operating permit application if required.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-461. SSTS application review and response.**

The department shall review a SSTS permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this article, the department shall issue a written permit authorizing construction of the SSTS as designed. If the permit application is incomplete or does not meet the requirements of this article the department shall deny the application. A notice of denial outlining the reasons for denial shall be provided to the applicant.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-462. SSTS application amendments.**

In the event the applicant makes a significant change to an approved SSTS application, the applicant must file the detail(s) changed and an amended design for approval prior to initiating or continuing construction, modification, or operation. The department shall complete the review of the amended application within five working days of receipt of the amended application. If the SSTS permit application is incomplete or does not meet the requirements of this article the department shall deny the application. A notice of denial outlining the reason for denial shall be provided to the applicant.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-463. SSTS expiration.**

The SSTS permit is valid for a period of one year from the date of issuance. Satisfactory completion of construction shall be determined by receipt of final SSTS as-built record. A county compliance report will be issued by a qualified employee of the department or a licensed inspection business approved by the department.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-464. SSTS extensions or renewals.**

The department may grant an extension of the SSTS permit if the construction was commenced prior to the original expiration date of the permit or due to constraints outside the control of the owner or SSTS installer. The SSTS permit may be extended for a period of no more than six months. The extension may have conditions imposed to meet or exceed any changes to technical standards and conform to the prevailing rules amended by the MPCA or the county.



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(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-465. SSTS transferability.**

A SSTS permit shall not be transferred to a new owner. The new owner must apply for a new SSTS permit in accordance with this section.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-466. Suspension or revocation.**

The department may suspend or revoke a SSTS permit issued under this section for any false statements or misrepresentations of facts on which the SSTS permit was issued, unauthorized changes to the SSTS design. A cease and desist order will be issued with a notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, the installation or modification of a SSTS may not commence or continue until the suspension or revocation has been lifted.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-467—6-480. Reserved.**

*DIVISION 7. MANAGEMENT PLANS*

**Subdivision I. Purpose**

**Sec. 6-481. Purpose of a management plan.**

The purpose of a management plan is to describe how the SSTS is intended to be operated and maintained for the life of the SSTS. The approved plan is provided by the certified designer to the SSTS owner when the SSTS is put into operation.

(Ord. of 4-27-2021, Att. A-2)

**Subdivision II. Management Plan Requirements**

**Sec. 6-482. SSTS requiring management plans.**

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the department as part of the SSTS permit application for review and approval. The department shall be notified of any SSTS modifications made during construction. The management plan shall be revised and resubmitted at the time of final construction certification if any modifications alter the previously submitted plan.

(Ord. of 4-27-2021, Att. A-2)

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**Sec. 6-483. Required contents of a management plan.**

Minn. Rules, Ch. 7082.0600, subp. 1 management plans include the operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;

- (1) Monitoring requirements;
- (2) Maintenance requirements, including maintenance procedures and a schedule for routine maintenance;
- (3) Statement that the owner is required to notify the department when the management plan requirements are not being met, with the reason for deficiency and a corrective action plan;
- (4) Disclosure of the location and condition of the additional soil treatment areas on the owner's property or a property serving the owner's residence; and
- (5) Any performance component; which shall include a description of the performance SSTS component, how the SSTS functions, equipment specifications, emergency operating procedures in the event of a malfunction, and a troubleshooting guide.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-484. Requirements for SSTS not operated under a management plan.**

Minn. Rules, Ch. 7082.0100, Subp. 3.(L) requires the following:

SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids, if needed, at a minimum of every three years. Solids must be removed when their accumulation meets the limit described in Minn. Rules, Ch. 7080.2450.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-485—6-500. Reserved.**

*DIVISION 8. OPERATING PERMIT*

**Sec. 6-501. SSTS requiring an operating permit.**

An operating permit shall be required of all owners of any type IV SSTS, Type V SSTS, any MSTs, or any other SSTS's deemed by the department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTs until the department certifies that the MSTs or holding tank was installed in substantial conformance with the approved plans, receives the final as-built record, and if required, a valid operating permit has been issued to the owner.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-502. Application requirements.**

Minn. Rules, Ch. 7082.0600, Subp. 2 requires that the local unit of government issue and ensure compliance for all operating permits of Type I, Type II, Type III, Type IV or Type V SSTS's, MSTs and any other system deemed by the local unit of government to require operational oversight.

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- (1) Application for an operating permit shall be made on a form provided by the department and must include the following:
    - a. Owner name, mailing address, telephone, and email address (optional);
    - b. SSTS permit reference number and date of issuance;
    - c. Final as-built record drawings of the SSTS;
    - d. A copy of a licensed service provider contract to maintain and monitor the condition of all components of a Type IV or V SSTS; and
    - e. A copy of a valid pumping and disposal contract with a licensed maintenance business.
  - (2) Monitoring and disposal contract.
    - a. In accordance with Minn. Rules, Ch. 7082.0100, subp. 3G, owners of holding tanks shall provide to the department 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 any illegal discharge. This requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stats. § 115.56, subd. 3, paragraph (b), clause (3). Individual contracts may be terminated by either the owner or the licensed maintenance business. A valid contract with a licensed maintenance business shall always be required until the holding tank has been properly abandoned.
  - (3) SSTS existing prior to the effective date of the ordinance from which this article derives.
    - a. All Type IV or Type V SSTS's existing prior to the effective date of this article shall require an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a SSTS permit, or following any SSTS enforcement action.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-503. Department response.**

The department shall review the record as-built drawings, management plans, maintenance and service contracts, 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. Once the submitted documents fulfill the requirements, the department shall issue an operating permit within 15 working days of receipt of the complete permit application.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-504. Terms and conditions.**

Minn. Rules, Ch. 7082.0600, Subp. 2. B requires the operating permit include the following system performance requirements;

- (1) System operating requirements;
- (2) Monitoring locations, procedures and recording requirements;
- (3) Maintenance requirements and schedules;
- (4) Compliance limits and boundaries;
- (5) Reporting requirements;

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- (6) Department notification requirements for non-compliant conditions;
  - (7) Valid contract between the owner and a licensed maintenance business;
  - (8) Disclosure, location and condition of acceptable soil treatment and dispersal system site; and
  - (9) Descriptions of acceptable and prohibited discharges.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-505. Expiration and renewal.**

- (a) Operating permits shall be valid for the specific term stated on the permit as determined by the department.
- (b) An operating permit must be renewed prior to its expiration. If not renewed, the department may require the SSTS to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within 90 calendar days of the expiration date, the county may require that the SSTS be abandoned in accordance of this article.
- (c) Application shall be made on a form provided by the property and environmental resources department including:
  - (1) Applicant name, mailing address and phone number;
  - (2) Reference number of previous owner's operating permit;
  - (3) Any and all outstanding compliance monitoring reports as required by the operating permit;
  - (4) Certified SSTS compliance inspection signed by a certified advanced inspector, service provider, maintainer, or operator; at the discretion of the department;
  - (5) Any revisions made to the operation and maintenance manual; and
  - (6) Payment for required permit fee.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-506. Transfer of ownership.**

The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with section 6-502. The department shall not terminate the current permit until 90 calendar days after the date of sale unless an imminent threat to public health or safety exists. To consider the new owner's application, the department may require a performance verification of the SSTS certified by a licensed advanced inspector or qualified employee.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-507. Suspension or revocation.**

- (a) 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.
- (b) Notice of suspension or revocation and the reasons shall be conveyed in writing to the owner.
- (c) If suspended or revoked, the department may require that the SSTS: be inspected, be removed from service, operated as a holding tank until the SSTS is brought into compliance, or abandoned in accordance with division 9 of this article.

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- (d) At the department's discretion, the operating permit may be reinstated or renewed upon the owner completing the appropriate corrective actions.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-508. Performance monitoring.**

- (a) Performance monitoring of a SSTS shall be performed by a licensed business and a certified service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the operating permit.
- (b) A monitoring report shall be prepared and certified by the licensed business certified service provider. The report shall be submitted to the department on a form approved 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:
  - (1) Owner name and address;
  - (2) Operating permit number;
  - (3) Average daily flow since last compliance monitoring report;
  - (4) Description of type of maintenance and date performed;
  - (5) Description of samples taken (if required), analytical laboratory used, and results of analyses;
  - (6) Problems noted with the SSTS and actions proposed or taken to correct them; and
  - (7) Name, signature, certification number and business license number of the licensed professional who performed the work.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-509—6-520. Reserved.**

*DIVISION 9. SYSTEM ABANDONMENT*

**Sec. 6-521. Purpose.**

The purpose of the SSTS abandonment certification is to ensure that a SSTS no longer in service is abandoned within a reasonable timeframe following decommissioning and in a manner that protects public health, safety and water quality. It also terminates all permits associated with the SSTS. Documentation of the abandonment is necessary for future development or use of the property as it pertains to public safety.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-522. Abandonment requirements.**

- (a) Whenever the use of a SSTS or any SSTS component is discontinued as the result of a SSTS repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the SSTS, further use of the SSTS or any SSTS component for sewage treatment under this article shall be prohibited.

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- (b) Continued use of a SSTS tank where the tank is to become an integral part of a replacement SSTS or a sanitary sewer system requires the prior inspection and written approval by the department. An owner of a SSTS must abandon all components of the treatment system not in use within 30 calendar days of a system replacement. Abandonment shall be completed in accordance with Minn. Rules, Ch. 7080.2500 and the tank void must be filled or crushed. The owner or owner's agent must provide the department notification two days prior to abandoning a SSTS.
  - (c) An MPCA SSTS abandonment form certified by the individual or business completing the work shall be submitted to the department. The report shall include at a minimum.
    - (1) Owner's name and contact information;
    - (2) Property address;
    - (3) The reason(s) for abandonment;
    - (4) A brief description of the abandonment methods used, description of the SSTS components removed or abandoned in place, and disposition of any materials or residuals; and
    - (5) Documented location of abandoned SSTS in relation to a steadfast reference point, GPS coordinate, or a drawing to scale representing the former SSTS.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-523—6-530. Reserved.**

*DIVISION 10. VARIANCES*

**Sec. 6-531. Variance from standards.**

- (a) An affected property owner or designated representative may request a variance from the SSTS standards as specified in this article. The department shall have the authority to grant administrative variances when the purposes and intent of the variance are consistent with this article, the county's zoning chapter, and the county's water management plan. The department may approve variances from standards and criteria not specifically listed on a case-by-case basis. No variance shall be granted except under the following circumstances:
  - (1) There are unique conditions affecting the property as a result of lot size, layout, shape, topography, soil conditions or other circumstances which the current landowners did not cause or have any control over; and
  - (2) Variance approval will not adversely affect the health or safety of persons residing or working in the area adjacent to the property and will not be materially detrimental to the public welfare or damaging to property or improvements in the area adjacent to the property of the applicant, and that granting of the variance will not adversely impact water quality.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-532. Variances pertaining to other affected agencies.**

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 that state agency.

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- (1) Variances pertaining to well setbacks are governed by Minn. Rules, Chs. 4720 and 4725 and shall only be approved by the Minnesota Department of Health through their variance procedure.
  - (2) Variance requests to deviate from the design flow determination procedures in Minn. Rules, Ch. 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. Rules, Ch. 7080.2150, Subp. 2 and Minn. Rules, Ch. 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and soil dispersal system and seasonally saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in Minn. Rules, Ch. 7082.1700, Subp. 4D) must be approved by the MPCA.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-533—6-540. Reserved.**

*DIVISION 11. DISPUTE RESOLUTION*

**Sec. 6-541. Dispute process.**

- (a) The applicant for any SSTS permit or compliance inspection may contest any or all the stipulations of said permit or report. This must be done in writing by providing relevant and detailed reasons why the department should reconsider the stipulations.
- (b) If the owner contests the stipulations, the department shall review the stipulations and inform the owner of its decision in writing within 30 working days. The reasons behind the decision must be clearly documented whether the request is denied, or the stipulations are revised.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-542. Dispute resolution.**

If there is a dispute between two or more parties, the dispute resolution will be as follows:

- (1) If the dispute is between two contractors for design or inspection, the department ruling will be final as to the interpretation of the limiting layer or other condition in question.
- (2) If the dispute is between a contractor and the department, the dispute resolution procedure described in Minn. Rules, Ch. 7082.0700, Subp. 5B. must be followed.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-543—6-550. Reserved.**

*DIVISION 12. ENFORCEMENT*

**Subdivision I. Violations**

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### **Sec. 6-551. Enforcement remedies.**

Enforcement of this article may be through criminal prosecution and/or administrative actions and/or civil judicial action.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-552. Violations are misdemeanors.**

Any person, firm, agent, corporation, or entity who violates any of the provisions of this article, or who fails, neglects, or refuses to comply with the provisions of this article, 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 Statutes. Each day that a violation exists shall constitute a separate offense.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-553. Administrative enforcement actions.**

- (a) *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 article. 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 article;
  - (3) Specific requirements for correction or removal of the specified violation(s); and
  - (4) A mandatory time schedule for correction, removal and compliance with this article.
- (b) *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, the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-554. Civil judicial enforcement actions.**

In the event of a violation of this article the county may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, correct or abate such violations or threatened violations and the county attorney shall have authority to commence such civil action. The department and county attorney may take such actions as may be necessary to enforce the provisions of this article.

(Ord. of 4-27-2021, Att. A-2)

## **Subdivision II. Notification of Violation to Other Agencies**



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**Sec. 6-555. General provisions.**

The department may notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS that is performed in violation of the provisions of this article.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-556. Straight-pipe Act.**

The department must notify the MPCA of violations of the Straight-Pipe Act of 2006 (Minn. Stats. § 115.55, subp. 11), in cases involving any SSTS that transports raw or partially settled sewage directly to; a surface water, lake, stream, drainage system, or onto the ground surface.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-557—6-570. Reserved.**

*DIVISION 13. ADMINISTRATION*

**Subdivision I. Costs and Reimbursements**

**Sec. 6-571. Property owner responsibility.**

All costs associated with the repair, replacement, or abandonment of a failing/noncompliant SSTS shall be the responsibility of the property owner or as otherwise provided for in a written, notarized agreement between affected parties.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-572. Abatement.**

If the department is required to remove or abate an imminent threat to public health or safety, the department may recover all costs incurred in removal or abatement in a civil action, including legal fees. At the discretion of the county board, the cost of an enforcement action under this article may be assessed and charged against the real property on which the public health nuisance was located as per Minn. Stats. § 145A.04. The county auditor shall extend the cost as assessed and charged on the tax roll against said real property.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-573. SSTS loan program.**

- (a) *Statutory authority and scope.* Pursuant to Minn. Stats. Ch. 115, this section is adopted to provide for the creation of a public loan program to finance the site evaluation, design, installation and replacement of failing SSTS. It allows local government agencies the ability to lend state funds or their own funds for this purpose.
- (b) *Definitions.* Terms used in this section will be used pursuant to the definitions provided in Minn. Stats. Ch. 115 and all relevant regulations of MPCA Rules, Ch. 7080, as amended, and the county SSTS ordinance set

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forth in this article. If a definition in this section is inconsistent with a definition provided in state statute or agency rule, for the purposes of this article, the county's definitions are controlling.

(c) *Provisions.*

- (1) The establishment of a loan program to assist property owners to replace failing, residential, SSTS in the county.
- (2) Replacement SSTS's shall be constructed in accordance with Minn. Stats. §§ 115.55 and 115.57 and the terms of this article, including, but not limited to the following provisions:
  - a. All construction, reconstruction and repairs made to failing, SSTS under this article shall be performed by a licensed, SSTS professional contractor.
  - b. All work performed shall comply with agency rules adopted pursuant to Minn. Stats. § 115.55, subd. 3, and other applicable county ordinance requirements including, but not limited to, the shoreland ordinance (chapter 14), and the well ordinance (chapter 6, Article III).
- (3) Access to the fund is voluntary. The amount loaned under the program, including accruing interest, shall be a lien against the real property for which the improvement was made assessed as, unless the amount is prepaid. Requirements for loan eligibility, details of loan agreements and program operation shall be established by an administrative plan as adopted and approved by county board resolution. The administrative plan may be amended as needed.
- (4) The property owner has the right to prepay the assessment at any time.
- (5) Administration of the loan shall be the responsibility of the department. The department shall be responsible for administration of the lien against the benefitting property.

(Ord. of 4-27-2021, Att. A-2)

## **Subdivision II. Additional Administrative Provisions**

### **Sec. 6-574. Public education and outreach.**

Minn. Rules, Ch. 7082.0100, subp. 4.(A) requires that SSTS programs shall provide public outreach 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.

(Ord. of 4-27-2021, Att. A-2)

### **Sec. 6-575. Record keeping.**

The county shall maintain a current record of all permitted SSTS. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record as-built drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed installation businesses, and any other records relevant to each SSTS according to Minn. Rules, Ch. 7082.0300, subp. 4.

(Ord. of 4-27-2021, Att. A-2)

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**Sec. 6-576. Annual report.**

The department shall provide an annual report of SSTS permitting activities to the MPCA for the previous calendar year as per MPCA reporting requirements found in Minn. Rules, Ch. 7082.0040, subp. 5.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-577. Fees.**

From time to time, the county board shall establish fees for activities undertaken by the department pursuant to this article. Fees shall be due and payable at a time and in a manner to be determined by the department.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-578. Interpretation.**

The interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-579. Severability.**

If any section, clause, provision, or portion of this article is adjudged unconstitutional or invalid by a court of law, the remainder of this article shall not be affected and shall remain in full force.

(Ord. of 4-27-2021, Att. A-2)

**Sec. 6-580. Abrogation and greater restrictions.**

It is not intended by this article to repeal, abrogate, or impair any other existing county ordinances, easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

(Ord. of 4-27-2021, Att. A-2)

**Secs. 6-581—6-600. Reserved.**

***ARTICLE VI. ILLICIT DISCHARGE DETECTION AND ELIMINATION***

***DIVISION 1. GENERALLY***

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### **Sec. 6-601. Purpose.**

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of Blue Earth County through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the county municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(Ord. of 12-12-2017(1), § 1.01)

### **Sec. 6-602. Intent.**

- (a) To regulate the contribution of pollutants to the county municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- (b) To prohibit illicit connections and discharges to the county municipal separate storm sewer system.
- (c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

(Ord. of 12-12-2017(1), § 1.02)

### **Sec. 6-603. Authority.**

This article is adopted pursuant to Minn. Stat. chs. 115, 116, 145A, 375, or successor statutes, and Minn. R. chs. 7090, or successor rules.

(Ord. of 12-12-2017(1), § 1.03)

### **Sec. 6-604. Definitions.**

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section. Unless specifically defined herein, terms used in this ordinance shall have the same definition as provided in Minn. Stat. chs. 115, 116, 145A, Minn. R. ch. 7090, and 33 U.S.C. Sec. 1251 et seq. and if not defined there, shall have common usage meaning. For purposes of this ordinance, the words "must" and "shall" are mandatory and not permissive unless a different definition appears in this article.

*Authorized enforcement agency.* Employees or designees of the director of the Blue Earth County Environmental Services Department or the director of the Blue Earth County Public Works Department are designated to enforce this article.

*Best management practices (BMPs).* Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*Clean Water Act.* The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

*Construction activity.* Construction activity includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may

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result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling, and excavating.

*County* means Blue Earth County, Minnesota.

*County board* means the Blue Earth County Board of Commissioners.

*Departments* means the Blue Earth County Environmental Services Department and/or the Public Works/Parks Department (or their successor), their staff and designated agents.

*Hazardous materials.* Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Illicit connections.* An illicit connection is defined as any of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drainage system, including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system; or any connection to the storm drainage system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

*Illicit discharge* means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer), discharges resulting from firefighting activities or other exempted activities listed in Subdivision 1 of Division 2 of this article.

*Industrial activity.* Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b)(14).

*Municipal separate storm sewer system (MS4).* The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains) owned or operated by a state, city, town, county, district, association, or other public body and designed or used for collecting or conveying stormwater, and not used for collecting or conveying wastewater that discharges to water of the state.

*National Pollutant Discharge Elimination System (NPDES)* means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

*Non-stormwater discharge.* Any discharge to the storm drainage system that is not composed entirely of stormwater.

*Person or owner.* Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent, or has charge, care or control of the property, or a combination of, with any legal or equitable interest in the property.

*Pollutant.* Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, septage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

*Premises.* Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

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*Storm drainage system.* Facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins and other stormwater facilities, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

*Stormwater.* Any surface flow, runoff, snow melt runoff, and drainage consisting entirely of water from any form of precipitation, and resulting from such precipitation.

*Stormwater pollution prevention plan (SWPPP).* A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

*Surface water or waters* means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private, except that surface waters do not include treatment basins or ponds that were constructed from upland.

*Wastewater.* Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

*Waters of the state* (as defined in Minn. Stat. § 115.01, subd. 22) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Ord. of 12-12-2017(1), § 2.00)

### **Sec. 6-605. Applicability.**

This article shall apply to all water entering the MS4 stormwater system generated on any developed or undeveloped lands unless explicitly exempted by this article. The Blue Earth County MS4 area is limited to the portions of the County located in the urbanized areas; that is, areas with stormwater conveyance systems and infrastructure. This article does not affect the liability or obligation imposed by Minnesota Statute, Minnesota Rule, Federal Law, or the requirements of other agencies with regulatory authority.

(Ord. of 12-12-2017(1), § 3.00)

### **Sec. 6-606. Highest standards prevail.**

Where the conditions imposed by a provision of this article are either more restrictive or less restrictive than comparable conditions imposed by a provision of this article or any other applicable law, ordinance, rule, or regulation, the provision that establishes the higher standard for the promotion and protection of the public health, safety, and general welfare shall prevail.

(Ord. of 12-12-2017(1), § 4.00)

### **Sec. 6-607. Responsibility of administration.**

The departments shall administer, implement and enforce the provisions of this article. At appropriate times, the county shall review, revise and update this article as necessary.

(Ord. of 12-12-2017(1), § 5.00)

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**Secs. 6-608—6-620. Reserved.**

## *DIVISION 2. DISCHARGE REGULATIONS*

### **Subdivision I. Discharge Prohibitions**

#### **Sec. 6-621. Prohibition of illicit discharges.**

- (a) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 pollutants or waters containing any pollutants, other than storm water.
- (b) The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited except as described as follows:
  - (1) The following discharges are exempt from discharge prohibitions established by this ordinance: flushing of water lines or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated to a level of less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.
  - (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
  - (3) Dye testing is an allowable discharge, but requires a written notification to the authorized enforcement agency at least three days prior to the time of the test.
  - (4) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the Minnesota Pollution Control Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system. Proof of compliance with said permit may be required in a form acceptable to the department prior to the allowance of discharges to the MS4

(Ord. of 12-12-2017(1), § 6.01)

#### **Sec. 6-622. Prohibition of illicit connections.**

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (c) A person is considered to be in violation of this article if the person connects a pipe from a premises that conveys sewage to the MS4, or allows such a connection to continue.

(Ord. of 12-12-2017(1), § 6.02)

## Subdivision II. MS4 Access

### Sec. 6-623. General permission.

Any parcel existing as of the effective date of the ordinance from which this article derives presumed to have permission to discharge stormwater to the county MS4 system provided it is in compliance with any provisions of NPDES permits, grading permits and/or other development approvals in effect at the time of development, except as provided below.

(Ord. of 12-12-2017(1), § 7.01)

### Sec. 6-624. Performance standards.

The county may adopt standards applying to the water quality, rate of flow, and volume of discharge of stormwater to the MS4 system that apply retroactively to any parcel discharging stormwater to the system.

(Ord. of 12-12-2017(1), § 7.02)

### Sec. 6-625. Suspension due to illegal discharges in emergency situations.

The county may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons. This may include, but is not limited to, installation of a storm sewer pipe plug to stop an actual or threatened discharge.

(Ord. of 12-12-2017(1), § 7.03)

### Sec. 6-626. Suspension due to the detection of illegal discharge.

Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illegal discharge. This may include, but is not limited to, installation of a storm sewer pipe plug to abate or reduce an illegal discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access in writing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Ord. of 12-12-2017(1), § 7)

## Subdivision III. Monitoring of Discharges

### Sec. 6-627. Applicability.

This subdivision applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.



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(Ord. of 12-12-2017(1), § 8.01)

**Sec. 6-628. Access to facilities.**

Whenever necessary to perform an inspection to enforce any of the provisions of this article, the department or its authorized agent may enter and inspect at any facility, including construction activity sites, subject to regulation under this article at all reasonable times to inspect the same or to perform any duty imposed upon the department by this article. If such facility be occupied, the department shall first present proper credentials and request entry; and if such facility be unoccupied, the department shall first make reasonable efforts to locate the owner or other person having charge or control of the facility and request entry. If such entry is refused, the department shall have recourse to every remedy provided by law to secure entry including, but not limited to, administrative and criminal search warrants.

(Ord. of 12-12-2017(1), § 8.02)

**Sec. 6-629. Inspections.**

- (a) Inspection and evaluation of any facility, including construction activity sites, subject to regulation under this ordinance may be made by the department to ensure compliance with the provisions of this article. The facility owner or operator shall allow the department or its authorized agent access for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this article. The facility owner or operator shall provide requested samples, free of charge, to the department to allow for appropriate tests. The facility owner or operator shall also allow the department, free of charge, to take samples and do tests, as appropriate, of soils, surface waters, ground water, air, raw materials, products, or other material or residual present at or emanating from the facility if such samples and tests will demonstrate whether the owner or operator is in compliance with this article. If deemed necessary by the department, the facility owner or operator shall allow the Department to set up any devices necessary to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (b) The facility owner or operator shall allow free access at reasonable times to inspect and copy, at a reasonable cost, all business records related to the owner's or operator's NPDES permit to discharge stormwater and the performance of any additional duties required by state and federal law. The facility owner or operator shall allow the department to record and document its findings in any reasonable and appropriate manner, including, but not limited to notes, photographs, photocopies, readouts from analytical instruments, videotapes, audio recordings, and computer storage systems or other electronic media.
- (c) The department may require the facility owner or operator to install monitoring equipment as deemed necessary by the department. The facility owner or operator shall maintain the sampling and monitoring equipment in a safe and proper manner at its own expense. All devices used to measure stormwater flow and quality shall be calibrated according to the manufacturer's instructions to ensure their accuracy.

(Ord. of 12-12-2017(1), § 8.03)

**Subdivision IV. Additional Discharge Regulations**

**Sec. 6-630. Requirments to prevent, control, and reduce stormwater pollutants by using best management practices.**

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, protection from accidental discharge of prohibited materials or other wastes into the county storm drainage

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system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illegal discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the county's separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(Ord. of 12-12-2017(1), § 9.00)

### **Sec. 6-631. Watercourse protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, or contaminate, the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the MS4.

(Ord. of 12-12-2017(1), § 10.00)

### **Sec. 6-632. Notification of releases.**

- (a) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or waters of the state said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
- (b) Hazardous materials illegal discharge: In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
- (c) Non-hazardous illegal discharge: In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person, by phone or e-mail no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed or emailed to the Department within three business days of the notice.
- (d) Records retained: If the illegal discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment, shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. of 12-12-2017(1), § 11.00)

### **Secs. 6-633—6-640. Reserved.**

## *DIVISION 3. ENFORCEMENT AND ADMINISTRATION*

### **Sec. 6-641. Enforcement—Notice of violation.**

- (a) Whenever the department finds that a person has violated a provision or failed to meet a requirement of this article, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

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- (1) The performance of monitoring, analyses, and reporting;
  - (2) The elimination of illicit connections or illegal discharges;
  - (3) That violating discharges, practices, or operations shall cease and desist;
  - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (5) Payment of a fine to cover administrative and remediation costs; and
  - (6) The implementation of source control or treatment BMPs.
- (b) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. A fine and fee structure shall be established by county board resolution.

(Ord. of 12-12-2017(1), § 12.00)

### **Sec. 6-642. Appeal of notice of violation.**

Any person receiving a notice of violation may appeal the determination of the department. The written notice of appeal must be received within ten business days from the date of the notice of violation, and must state the grounds for the appeal. The hearing shall be held before the county board, or a hearing examiner appointed by the county board by resolution. The hearing examiner shall conduct the hearing; and make findings of fact, conclusions and recommendations to the county board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the county board in a written report, and the county board may adopt, modify or reject the report. Unless an extension of time is requested by the appellant in writing directed to the chair of the county board is granted, the hearing will be held no later than 45 calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than 90 calendar days after the date of service of request for hearing, exclusive of the date of such service. The decision of the county board shall be final. Any appellant aggrieved by the decision of the county board may appeal that decision to any court with appropriate jurisdiction. This section does not apply where violations of other federal or state laws occurs or where a hazardous material spill or release occurs.

(Ord. of 12-12-2017(1), § 13)

### **Sec. 6-643. Enforcement measures after appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, then representatives of the authorized department shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. of 12-12-2017(1), § 14)

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**Sec. 6-644. Cost of abatement of the violation.**

After abatement of the violation by Blue Earth County, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written objection to the amount of the assessment within ten business days. If the amount due is not paid within a timely manner as determined by the decision of the department or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the county by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate determined by the county board shall be assessed on the balance beginning on the 30th day following completion of the work to abate the violation.

(Ord. of 12-12-2017(1), § 15)

**Sec. 6-645. Injunctive relief and violations deemed a public nuisance.**

- (a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- (b) In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. The authorized enforcement agency may also recover all attorney's fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses, and any additional relief the court may deem necessary and proper.

(Ord. of 12-12-2017(1), § 16.00)

**Sec. 6-646. Criminal prosecution.**

Any person violating the provisions of this article shall be guilty of a misdemeanor criminal offense punishable by a fine of up to \$1,000.00 or a jail sentence of up to 90 days or both. Each day that violation is committed or permitted to exist shall constitute a separate offense. The authorized enforcement agency may recover as restitution all other expenses associated with the enforcement of this ordinance, including sampling and monitoring expenses. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this article.

(Ord. of 12-12-2017(1), § 17.00)

**Sec. 6-647. Severability.**

If any section, clause, provision, or portion of this article is adjudged unconstitutional or invalid by a court of law, the remainder of this article shall not be affected and shall remain in full force.

(Ord. of 12-12-2017(1), § 18.00)

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**Sec. 6-648. Remedies cumulative.**

No remedy set forth in this article is intended to be exclusive but each such remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or equity. No delay in the exercise of any remedy for violation of this article shall later impair or waive any such right or power of the county.

(Ord. of 12-12-2017(1), § 19.00)

**Secs. 6-649—6-660. Reserved.**

**ARTICLE VII. CONSTRUCTION SITE RUNOFF CONTROL**

**Sec. 6-661. Purpose.**

This article establishes standards and requirements for erosion and sediment control measures to be taken during the development of and alterations to lands within the Blue Earth County MS4 area. The purpose of this article is to protect health, safety and general welfare, property and the environment by establishing regulations for erosion and sediment control related to land disturbing activities as required by federal (United States Environmental Protection Agency, US-EPA) and state (Minnesota Pollution Control Agency, MPCA) law.

(Ord. of 12-12-2017(2), § 1.01)

**Sec. 6-662. Intent.**

- (a) To regulate land disturbing activity that allows uncontrolled erosion to occur.
- (b) To protect and prevent the discharge of sediment into public and/or private lands, public infrastructure, wetlands and waters of the State.

(Ord. of 12-12-2017(2), § 1.02)

**Sec. 6-663. Authority.**

This article is adopted pursuant to Minn. Stat. chs. 115, 116, 145A, 375, 394 or successor statutes, and Minn. R. chs. 7090, or successor rules.

(Ord. of 12-12-2017(2), § 1.03)

**Sec. 6-664. Definitions.**

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section. Unless specifically defined herein, terms used in this ordinance shall have the same definition as provided in Minn. Stat. chs. 115, 116, 145A, Minn. R. ch. 7090, and 33 U.S.C. Sec. 1251 et seq. and if not defined there, shall have common usage meaning. For purposes of this article, the words "must" and "shall" are mandatory and not permissive unless a different definition appears in this article.

*Applicant.* Any person or group that applies for a permit to allow land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or group's direction. The term

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"applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

*Best management practices (BMPs)* means the most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means of to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.

*Builder, commercial.* Any building contractor engaging in work other than work performed under a license from the State of Minnesota as a residential building contractor, remodeler or specialty contractor in the business of contracting or offering to contract to improve residential real estate, all terms as defined by Minnesota Statute.

*Building construction.* The construction of any principle building or accessory structure or modification of a parcel of land or platted lot.

*Common plan of development or sale* means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

*Construction activity* includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling, and excavating.

*County* means Blue Earth County, Minnesota, staff and designated agents.

*County board* means the Blue Earth County Board of Commissioners.

*Departments* means the Blue Earth County Environmental Services Department and/or the Public Works/Parks Department (or their successor), their staff and designated agents.

*Developer.* Any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision engaged in a land disturbance activity.

*Dewatering* means the removal of surface or ground water to dry and/or solidify a construction site to enable construction activity.

*Final stabilization* means that all soil disturbing activities at the site have been completed and all soils must be stabilized by a uniform perennial vegetative cover with a density of 70 percent or greater over the entire previous service area, or other equivalent means necessary to prevent soil failure under erosive conditions and:

- (1) All drainage ditches, constructed to drain water from the site after construction is complete, must be stabilized to exclude erosion;
- (2) All temporary synthetic and structural erosion prevention and sediment control BMPs (such as silt fence) must be removed; and
- (3) The permittee must clean out all sediment from conveyances and from temporary sedimentation basins that are to be used as permanent water quality management basins. Sediment must be stabilized to prevent it from being washed back into the basin and/or into conveyances or drainage ways discharging off-site or to surface waters. The cleanout of permanent basins must be sufficient to return the basin to design capacity.

*Grading manual.* Blue Earth County Grading Manual, most current version; requirements for grading and drainage design and construction for any land disturbing activities.

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*Impervious surface* means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, whether constructed of concrete, asphalt, or gravel.

*Land development (develop)*. The process whereby improvement to a single lot or to an entire site, occurs in one continuous process or in more than one distinct phase, including but not limited to the following activities, site grading; installation of utilities; construction of public streets; construction or grading of drainage ways; other grading or filling of any area within the site; grading of building pad areas; utility hookups; construction of buildings; parking lots; driveways; storage areas; private streets; and any other construction or land disturbing activity within the subject property site.

*Land disturbing activity*. Any removal of vegetation, excavating, grading, clearing, filling, stockpiling, hauling, or other earth change related to or associated with construction or reconstruction, which may result in movement of soil particles of earth.

*Land disturbance permit*. A permit issued by the county for the control of erosion and sediment during land disturbing activities.

*Municipal separate storm sewer system (MS4)*. The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains) owned or operated by a state city, town, county, district, association, or other public body and designed or used for collecting or conveying stormwater, and not used for collecting or conveying wastewater that discharges to waters of the state.

*National Pollutant Discharge Elimination System* means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

*Natural buffer* means an area of undisturbed cover surrounding surface waters within which construction activities are restricted. Natural buffer includes the vegetation, exposed rock, or barren ground that exists prior to commencement of earth-disturbing activities.

*Notice of termination* means notice to terminate coverage under a land disturbance permit after construction is complete, the site has undergone final stabilization, and maintenance agreements for all permanent facilities have been established, in accordance with all applicable conditions of said permit.

*Parcel of record*. A tract, plot, lot, and/or portion of subdivision or other parcel of land, intended as a unit for the purpose, whether immediate or future, of transfer of ownership, possession or for building development.

*Permanent cover* means surface types that will prevent soil failure under erosive conditions. Examples include: gravel, asphalt, concrete, rip rap, roof tops, perennial cover, or other landscaped material that will permanently arrest soil erosion. A uniform perennial vegetative cover ( i.e. evenly distributed, without large bare areas) with a density of 70 percent of the native background vegetative cover for the area must be established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures. Permanent cover does not include the practices listed under temporary erosion protection.

*Permittee*. A land disturbance permit holder.

*Person or owner*. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent, or has charge, care or control of the property, or a combination of, with any legal or equitable interest in the property.

*Preliminary plat*. A drawing of the entire subdivision meeting all requirements of the county subdivision ordinance.

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*Public waters.* All basins and watercourses that meet the criteria set forth in Minn. Stats., Section 103G.005, Subdivision 15 that are identified on public water inventory maps and lists authorized by Minn. Stats., Section 103G.201.

*Responsible party.* Responsible party means the landowner or any other entity performing services to meet the requirements of this article through a contract or other agreement.

*Sediment.* The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, or ice, and has come to rest on the earth's surface either above or below water level.

*Stabilization.* The covering of exposed ground surface by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Applying mulch, hydromulch, tackifier, polyacrylamide or similar erosion prevention practices is not acceptable stabilization in temporary or permanent drainage ditches or areas where concentrated overland flow occurs. Grass seeding is not stabilization.

*Stormwater.* The precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff and drainage. Stormwater does not include construction site dewatering.

*Stormwater pollution prevention plan (SWPPP).* A plan developed to identify the sources of pollution that affect the quality of stormwater discharge from a site and to describe and ensure the implementation of practices to prevent or reduce pollutants in stormwater discharge.

*Surface water or waters* means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private, except that surface waters do not include treatment basins or ponds that were constructed from upland.

*Temporary erosion protection* means methods employed to prevent erosion during construction activities. Examples of temporary erosion protection include, but are not limited to: straw, wood fiber blanket, wood chips, vegetation, mulch, and rolled erosion control products.

*Waters of the state* (as defined in Minn. Stat. § 115.01, subd. 22) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Ord. of 12-12-2017(2), § 2.00)

### **Sec. 6-665. Applicability.**

This article establishes standards and requirements for erosion and sediment control measures to be taken during the development of and alterations to lands within the Blue Earth County MS4 area. This ordinance applies to the areas of the Blue Earth County MS4 where the county has permitting authority for zoning or other land use related permitting. The Blue Earth County MS4 area is limited to the portions of the county located in the urbanized areas. This article does not affect the liability or obligation imposed by Minnesota Statute, Minnesota Rule, federal law, or the requirements of other agencies with regulatory authority.

(Ord. of 12-12-2017(2), § 3.00)

### **Sec. 6-666. Highest standards prevail.**

Where the conditions imposed by a provision of this article are either more restrictive or less restrictive than comparable conditions imposed by a provision of this article or any other applicable law, ordinance, rule, or



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regulation, the provision that establishes the higher standard for the promotion and protection of the public health, safety, and general welfare shall prevail.

(Ord. of 12-12-2017(2), § 4.00)

### **Sec. 6-667. Responsibility of administration.**

The departments or its designee shall administer, implement and enforce the provisions of this article. At appropriate times, the county shall review, revise and update this article as necessary.

(Ord. of 12-12-2017(2), § 5.00)

### **Sec. 6-668. Subject land use activitie.**

All land disturbing activities are subject to the conditions of this article.

- (1) In the agricultural district or conservation district as shown on the Official Blue Earth County Zoning Map, the responsible party for projects that disturb under one acre of land are not required to obtain a land disturbance permit, but must comply with the requirements in subsection 6-674(b).
- (2) In the rural townsite, rural residence, general business, highway business, light industry, or heavy industry zoning districts as shown on the Official Blue Earth County Zoning Map, the responsible party for projects that disturb between 5,000 square feet of land and one acre of land are required to obtain a land disturbance permit before disturbing any land and must comply with the requirements in subsection 6-674(b).
- (3) The responsible party for all projects that disturb one acre or more of land are required to obtain a land disturbance permit before disturbing any land and must comply with the minimum requirements of subsection 6-674(a) and 6-674(b).
  - a. All persons planning a land disturbing activity that disturbs one acre or more of land, shall first obtain a National Pollution Discharge Elimination System construction stormwater permit, before applying for a land disturbance permit from the county. A county construction permit will not be issued without an approved land disturbance permit.
  - b. Roadway, utility and subdivisions. All persons wishing to start a land disturbance project for the purposes of the construction of any roadway, utilities, mass grading, or site development that disturbs one acre or more of land, shall first obtain a National Pollution Discharge Elimination System construction stormwater permit, before applying for a land disturbance permit from the county. Each parcel of record within a subdivision must obtain a separate land disturbance permit.
- (4) The land disturbance permit does not replace, eliminate or satisfy the need for any other permits required by any other public or private entity.

(Ord. of 12-12-2017(2), § 6.00)

### **Sec. 6-669. Land use exemptions.**

The following activities are exempt from the requirements of this article:

- (1) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.

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(Ord. of 12-12-2017(2), § 7.00)

**Sec. 6-670. Land disturbance permit exceptions.**

The following activities require application and issuance of a land disturbance permit and are subject to the provisions of this ordinance, but are exempt from the fee requirements:

- (1) Maintenance work or construction projects administered through the county's departments.
- (2) Federal, state, county, MS4 and other projects where the county does not have regulatory authority.
- (3) Small utilities working in the right-of-way.

(Ord. of 12-12-2017(2), § 8.00)

**Sec. 6-671. Land disturbance permit review.**

Prior to any land disturbing activities on lands that meet the requirements in section 6-668 for a land disturbance permit, the owner or applicant shall apply for and obtain a land disturbance permit from the county.

- (1) Land disturbance permit applications shall be submitted to the county for review after the applicant obtains an MPCA construction stormwater permit for construction activities that result in land disturbance of one acre or more or for a common plan of development that disturbs one acre or more.
- (2) Land disturbance permits for projects that are one acre or larger shall be processed within 30 calendar days from receipt of a completed application.
- (3) Land disturbance permits for projects under one acre shall be processed within ten business days from receipt of a completed application.
- (4) The county shall in writing:
  - a. Approve the permit application;
  - b. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this article, and issue the permit subject to these conditions; or
  - c. Deny the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
  - d. Failure of the county to act on an original or revised land disturbance permit application within the time period specified in this section, shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the county, or the county notifies the applicant of errors and/or omissions in the application requiring corrective action on the part of the applicant. Once the land disturbance permit is approved, permit coverage will be issued to the permittee.

(Ord. of 12-12-2017(2), § 9.00)

**Sec. 6-672. Land disturbance permit fees.**

Fees for land disturbance permits and after-the-fact land disturbance permits for projects which have started a land disturbing activity without a permit shall be established by county board resolution.

- (1) All land disturbance permit fees shall be submitted to the county with the permit application.

**Sec. 6-673. Land disturbance permit submittal.**

The application for a land disturbance permit shall include the following:

- (1) For sites that disturb one acre or more of land, a copy of the stormwater pollution prevention plan (SWPPP) or portion of the SWPPP prepared for the MPCA.
- (2) The location address(es) and parcel identification number (s) of the property where the land disturbance activity is proposed.
- (3) The applicant name, property owner name and identification of who is responsible for post construction maintenance of all BMPs.
- (4) A site plan or plans that clearly shows the location of all proposed land disturbing activities and the location of all existing and proposed:
  - a. Property lines;
  - b. Roads;
  - c. Structures and buildings;
  - d. Driveway and means of ingress and egress and circulation;
  - e. Parking areas and other impervious surfaces;
  - f. Sewer lines and all portions of septic systems;
  - g. Wells and water lines;
  - h. Wetlands and wetland protection easements;
  - i. Public waters located on or within 100 feet of the subject property;
  - j. Stormwater drains, footing tile drain outlet locations, and drainage ways on or adjacent to the subject property;
  - k. Soil stockpiles;
  - l. Topographic contours at one or two foot contour intervals;
  - m. Other site specific information that reasonably may be required in order for an informed decision to be made by the approving authority.
- (5) Erosion, sediment and waste control measures. The site plan or plans should show the proposed measures to control erosion, sediment and waste including:
  - a. Identification of all areas to be graded or excavated, and the limits of land disturbing activities;
  - b. Identification of measures to be utilized to control erosion and sedimentation within and from the subject property during the project activity as required herein;
  - c. Identification of all permanent erosion control measures and a completion schedule;
  - d. Identification of the location of soil storage or stock pile areas to be utilized.
  - e. If soil will be stored or moved to a different property off-site, the location shall be identified;
  - f. Identification of all measures to be utilized to protect neighboring property, water bodies, and wetlands;

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- g. Identification, use and maintenance plan of BMPs for effective temporary erosion and sedimentation control including but not limited to:
    - 1. Perimeter erosion control devices, including but not limited to silt fence, sediment logs, mulch, etc;
    - 2. Stockpile protection;
    - 3. Phased grading;
    - 4. Temporary seeding, mulching, and disc anchoring (with seed and mulch type);
    - 5. Storm drain inlet protection devices;
    - 6. Appropriately protected construction entrance;
    - 7. Removal of all debris, dirt and soil from impervious ground surfaces, including abutting public or private roadways and sidewalks, in connection with the subject property (street sweeping);
    - 8. Sediment basins and flow diversions; and
    - 9. Any other erosion and sedimentation control device as deemed necessary by the county.
  - (6) Drainage and grading plans.
    - a. Documents and plans as required and necessary for the review of site drainage and grading.

(Ord. of 12-12-2017(2), § 11.00)

#### **Sec. 6-674. Requirements and standards.**

- (a) The responsible party for all projects that disturb one acre of land or more shall obtain coverage under and comply with the standards in the most recent Minnesota Pollution Control Agency (MPCA) National Pollutant Discharge Elimination System (NPDES) construction storm water permit (MN R100001), and comply with the following general standards in subsection 6-674(b).
- (b) The responsible party for all land disturbing projects shall comply with the following standards:
  - (1) *Erosion, sediment, and waste control practices.* Erosion, sediment, and waste control practices shall be used at each site where the land disturbing construction activity is to occur to prevent or reduce all of the following:
    - a. The deposition of soil from being tracked onto roads by vehicles.
    - b. The discharge of sediment from disturbed areas into storm water inlets.
    - c. The discharge of sediment from disturbed areas into any surface water.
    - d. The discharge of sediment from drainage ways that flow off the site.
    - e. The discharge of sediment from dewatering activities.
    - f. The discharge of sediment eroding from soil stockpiles.
    - g. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period.
  - (2) *Location.* The erosion, sediment, and waste control practices shall be located so that treatment occurs before runoff leaves the site or before runoff enters waters of the state.

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- (3) *Implementation.* The erosion, sediment and waste control practices used to comply with this section shall be implemented as follows:
- a. Erosion, sediment, and waste control practices shall be constructed or installed before land disturbing construction activities begin.
  - b. Erosion, sediment and waste control practices shall be maintained and repaired until final stabilization to assure the continued performance of their intended function.
  - c. All exposed soil areas and stockpiles must be stabilized. Stabilization must be initiated immediately to limit soil erosion whenever any construction activity has permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed no later than 14 calendar days after the construction activity in that portion of the site has temporarily or permanently ceased. When the site is within one mile of an impaired water, stabilization must be completed no later than seven calendar days after the construction activity in that portion of the site has temporarily or permanently ceased.
  - d. Property, roadways, and ditches adjacent to the site of a land disturbance shall be protected from sediment deposition. This shall be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, filters, dikes or sediment basins, by stockpiling soil in appropriate locations or by a combination of such measures.
  - e. All storm sewer inlets which are functioning during construction shall be protected so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
  - f. Property and waterways downstream from development sites shall be protected from flooding and erosion due to increases in the volume, velocity and peak water flow rate of stormwater runoff.
  - g. Whenever construction vehicles access public roads, provisions shall be made to minimize the transport of sediment by runoff or vehicle tracking onto the road surface. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day.
  - h. Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
  - i. Erosion and sediment control practices that are no longer necessary for erosion and sediment control shall be removed by the responsible party within 30 days after final site stabilization is achieved.

(Ord. of 12-12-2017(2), § 12.00)

### **Sec. 6-675. Duration of coverage by land disturbance permit.**

A land disturbance permit shall remain effective until one of the following occurs:

- (1) *Final stabilization.* A land disturbance permit shall remain effective until after final stabilization is achieved, a notice of termination has been filed with the county, all termination of coverage requirements are met, and the county has issued the notice of termination. A notice of termination of a land disturbance permit issued by the county does not terminate the MPCA NPDES construction stormwater permit; a separate notice of termination must be filed with the MPCA.

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- (2) *Change of coverage.* For stormwater discharges from construction projects where the owner changes prior to issuing notice of termination of a land disturbance permit (e.g. a homebuilder sells a house and lot to the final homebuyer or the entire site changes ownership):
- a. The original/current applicant shall provide a copy of the notice of termination for the land disturbance permit or permit modification form to the new applicant.
  - b. The original/current applicant shall provide the SWPPP, or equivalent plan, to the new applicant that specifically addresses the remaining construction activity. If the SWPPP or equivalent plan is not relevant, or the new applicant wants to use a new plan, this must be submitted with the notice of termination/permit modification form.
  - c. The new and current applicants shall work together to submit one completed and signed permit modification form to the county within seven calendar days of assuming operational control of the site, commencing work on their portion of the site, or of the legal transfer, sale, or closing on the property. No new fees will be required.  

The change of coverage becomes effective five calendar days from receipt of the completed form unless the permittee is contacted by the county during the five-day period and notified of an incomplete form. The permit modification portion of the notice of termination/permit modification form acts as the permit application for the new applicant and a notice of termination for the current applicant only for the portion of the site which was sold.
  - d. Late submittals of land disturbance permit transfers will not be rejected; however, the county reserves the right to take enforcement action for any unpermitted discharges or permit noncompliance for the new registered party that has assumed control of the site.
  - e. For stormwater discharges from construction activities where the applicant changes, the new applicant can implement the original SWPPP created for the project or develop and implement their own SWPPP.
  - f. The new permittee shall ensure either directly through coordination with the old permittee that their SWPPP meets all terms and conditions of this ordinance or that their activities do not render ineffective another party's erosion prevention and sediment control BMP's.
- (3) *Time requirement reached.* The land disturbance permit becomes void if work does not begin within 180 days of permit approval or is suspended at any time for over 180 days. Extensions may be granted for requests received at least 15 days prior to permit becoming void. If a permit becomes void, the permit application process will begin anew.

(Ord. of 12-12-2017(2), § 13.00)

### **Sec. 6-676. Termination of coverage.**

- (a) A permittee wishing to terminate the land disturbance permit must complete final stabilization and submit a notice of termination request. Requests for notices of termination are made by completing the notice of termination permit modification form supplied with the permit and submitting it to departments or designee as provided with the notice of coverage.
- (b) Compliance with the land disturbance permit is required until a notice of termination is submitted and approved by the county. The notice of termination becomes effective 15 calendar days after the postmarked date of the completed notice of termination form or other proper notification, unless the permittee is contacted by the county during the 15-day period and notified that the notice of termination request is incomplete or that the request has been denied.

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(Ord. of 12-12-2017(2), § 14.00)

### **Sec. 6-677. Inspections.**

The county shall have the right to enter and inspect a property to determine compliance with this article.

- (1) *Self inspections.* The permittee or their designee must make regular inspections of the entire site at least once every seven days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours, to ensure compliance with this ordinance and the requirements of the most recent Minnesota Pollution Control Agency (MPCA) National Pollutant Discharge Elimination System (NPDES) construction storm water permit (MN R100001). Records of these inspections shall be made available to the county upon request.
- (2) *County inspections.* The county and/or its designee shall make inspections and either approve that portion of work or notify the permittee where work is non-compliant. Whenever necessary to perform an inspection to enforce any of the provisions of this article, the county or its authorized agent may enter and inspect at any property, including construction activity sites, subject to regulation under this article at all reasonable times to inspect the same or to perform any duty imposed upon the county by this article. If such facility is occupied, the county shall first present proper credentials and request entry; and if such facility be unoccupied, the county shall first make reasonable efforts to locate the owner or other person having charge or control of the facility and request entry. If such entry is refused, the county shall have recourse to every remedy provided by law to secure entry including, but not limited to, administrative and criminal search warrants. The land disturbance permit fee shall cover the cost of routine inspections. Additional inspections due to non-compliance will be billed to the affected property owner at a rate determined by county board resolution.

(Ord. of 12-12-2017(2), § 15.00)

### **Sec. 6-678. Enforcement—Notice of violation.**

- (a) In the event of non-compliance, the county may suspend construction and any issued permits. Only corrective action work to bring the site back to compliance will be permitted, and no other construction on the site shall be allowed until authorized by THE County. A fine and fee structure shall be established by county board resolution.
- (b) The county shall use the following procedure to notify owners of violations and corrective measures.
  - (1) *Residential, commercial, multi-family and industrial sites.* In the event a building site permittee is in violation of the land disturbance permit or the SWPPP, the county may issue a stop work order suspend or revoke the land disturbance permit or county construction permits for the site. The county shall serve the permittee and/or other responsible persons, in writing a notice of violation.
  - (2) *Land disturbing activities in the public right-of-ways.* The county shall notify the responsible party of the violation and require that construction activities be terminated to allow the responsible party to remove conditions or remedy any defects. The notice shall require the responsible party to take reasonable steps within 24 hours to abate and correct the violation.
  - (3) *Stop work orders.* The county administrator or their designee may issue stop work orders for any violation of this article.
  - (4) *Public nuisance.* A violation of this section is declared to be a public nuisance and may be abated.

(Ord. of 12-12-2017(2), § 16.00)

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**Sec. 6-679. Appeal of notice of violation.**

Any person receiving a notice of violation may appeal the determination of the department. The written notice of appeal must be received within ten business days from the date of the notice of violation, and must state the grounds for the appeal. The hearing shall be held before the county board, or a hearing examiner appointed by the county board by resolution. The hearing examiner shall conduct the hearing; and make findings of fact, conclusions and recommendations to the county board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the county board in a written report, and the county board may adopt, modify or reject the report. Unless an extension of time is requested by the appellant in writing directed to the chair of the county board is granted, the hearing will be held no later than 45 calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than 90 calendar days after the date of service of request for hearing, exclusive of the date of such service. The decision of the county board shall be final. Any appellant aggrieved by the decision of the county board may appeal that decision to any court with appropriate jurisdiction. This section does not apply where violations of other federal or state laws occurs or where a hazardous material spill or release occurs.

(Ord. of 12-12-2017(2), § 17.00)

**Sec. 6-680. Enforcement measures after appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, then representatives of the authorized Department shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. of 12-12-2017(2), § 18.00)

**Sec. 6-681. Cost of abatement of the violation.**

After abatement of the violation by Blue Earth County, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten business days. If the amount due is not paid within a timely manner as determined by the decision of the department or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the county by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate determined by the county board shall be assessed on the balance beginning on the 30th day following completion of the work to abate the violation.

(Ord. of 12-12-2017(2), § 19.00)

**Sec. 6-682. Injunctive relief and violations deemed a public nuisance.**

- (a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.



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- (b) In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. The authorized enforcement agency may also recover all attorney's fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses, and any additional relief the court may deem necessary and proper.

(Ord. of 12-12-2017(2), § 20.00)

### **Sec. 6-683. Criminal prosecution.**

Any person violating the provisions of this article shall be guilty of a misdemeanor criminal offense punishable by a fine of up to \$1,000.00 or a jail sentence of up to 90 days or both. Each day that violation is committed or permitted to exist shall constitute a separate offense. The authorized enforcement agency may recover as restitution all other expenses associated with the enforcement of this article, including sampling and monitoring expenses. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this article.

(Ord. of 12-12-2017(2), § 21.00)

### **Sec. 6-684. Severability.**

If any section, clause, provision, or portion of this article is adjudged unconstitutional or invalid by a court of law, the remainder of this article shall not be affected and shall remain in full force.

(Ord. of 12-12-2017(2), § 22.00)

### **Sec. 6-685. Remedies cumulative.**

No remedy set forth in this ordinance is intended to be exclusive but each such remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or equity. No delay in the exercise of any remedy for violation of this article shall later impair or waive any such right or power of the county.

(Ord. of 12-12-2017(2), § 23.00)

### **Secs. 6-686—6-700. Reserved.**

## ***ARTICLE VIII. BUFFER ORDINANCE***

### ***DIVISION 1. GENERALLY***

#### **Sec. 6-701. Statutory authorization and purpose**

- (a) *Statutory authorization.* This buffer ordinance is adopted pursuant to the authorization and policies contained in Minn. Stats. § 103F.48, Riparian Protection and Water Quality Practices, the local water management authority under Minn. Stats. § 103B, and the county planning and zoning enabling legislation in Minn. Stats. § 394.

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- (b) *Purpose and intent.* It is the purpose and intent of the county to:
- (1) Provide for riparian vegetated buffers and water quality practices to achieve the following purposes:
    - a. Protect state water resources from erosion and runoff pollution;
    - b. Stabilize soils, shores and banks; and
    - c. Protect or provide riparian corridors.
  - (2) Coordinate the implementation and enforcement of the water resources riparian protection requirements of Minn. Stats. § 103F.48 with the shoreland management rules and ordinances adopted under the authority of Minn. Stats. § 103F.201 to 103F.227 and the management of public drainage systems established under Minn. Stats. ch. 103E where applicable.
  - (3) Establish procedures for enforcement of the Riparian Protection and Water Quality Practices law under the jurisdiction of the county as provided in Minn. Stats. § 103F.48 subd. 7, and Minn. Stats. § 103B.101, subd. 12a.
  - (4) Provide efficient and effective direction to landowners and protection of surface water quality and related land resources.

(Ord. of 10-24-2017, § 1.0)

## **Sec. 6-702. Definitions.**

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this article, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

*Administrative penalty order* means the administrative penalty order issued pursuant to Minn. Stats. § 103F.48, subd. 7 and Minn. Stats. § 103B.101, subd. 12a.

*Buffer* has the meaning provided in Minn. Stats. § 103F.48, subd. 1(c); except when the provisions of Minn. Stats. § 103E.021 are applicable.

*Buffer protection map* has the meaning provided in Minn. Stats. § 103F.48, subd. 1(d) and which are available on the Department of Natural Resources website.

*Board of Water and Soil Resources* means the Minnesota Board of Water and Soil Resources.

*Corrective action notice* has the meaning provided in Minn. Stats. § 103F.48, subd. 7, paragraph (a).

*County* means Blue Earth County.

*Cultivation farming* means farming practices that disturb root or soil structure or that impair the viability of perennial vegetation due to cutting or harvesting near the soil surface.

*Drainage authority* has the meaning provided in Minn. Stats. § 103E.005, subd. 9.

*Landowner* means the holder of the fee title, the holder's agents or assigns, any lessee, licensee, or operator of the real property and includes all land occupiers as defined by Minn. Stats. § 103F.401, subd. 7 or any other party conducting farming activities on or exercising control over the real property.

*Local water management authority* has the meaning provided in Minn. Stats. § 103F.48, subd. 1(g).

*Normal water level* means the level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.

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*Notice of noncompliance* means a document from the soil and water conservation district notifying the county that a parcel is out of compliance with the requirements in Minn. Stats. § 103F.48.

*Parcel* means a unit of real property that has been given a tax identification number maintained by the county.

*Public drainage system* has the meaning given to "drainage system" in Minn. Stats. § 103E.005, subd. 12.

*Repeat violation* means removal or willful degradation of a riparian buffer or water quality practice, wholly or partially, by a landowner, agent or operator in an offense subsequent to the original violation identified in a preceding corrective action notice.

*Soil and water conservation district* means the Blue Earth County Soil and Water Conservation District.

*Validation of compliance* means a document issued by the soil and water conservation district at the request of the landowner, as provided in Minn. Stats. § 103F.48 Subd. 3(d).

(Ord. of 10-24-2017, § 2.1)

### **Sec. 6-703. Severability.**

If any section, clause, provision, or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

(Ord. of 10-24-2017, § 2.2)

### **Sec. 6-704. Data sharing/management.**

- (a) The county may enter into arrangements with the soil and water conservation district, board of water and soil resources and other governmental or contracted parties with respect to the creation and maintenance of, and access to, data concerning buffers and alternative practices under this article.
- (b) The county will manage all such data in accordance with the Minnesota Data Practices Act and any other applicable laws.

(Ord. of 10-24-2017, § 2.3)

### **Sec. 6-705. Jurisdiction.**

The provisions of this article apply to all waters shown on the Buffer Protection Map.

(Ord. of 10-24-2017, § 3.0)

### **Secs. 6-706—6-720. Reserved.**

## *DIVISION 2. BUFFER REGULATIONS*

### **Sec. 6-721. Buffer requirements.**

- (a) *Buffer width.* Except as provided in subsections 6-721(d) and (e), a landowner owning property adjacent to a water body identified on the buffer protection map must establish and maintain a buffer area as follows:

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- (1) For waters shown on the buffer protection map requiring a 50-foot width buffer, the buffer width will be 50 feet as provided in Minn. Stats. § 103F.48, subd. 3 and as required in Blue Earth County Shoreland Ordinance Sec. 14-116(b) Agricultural Use Standards, as measured according to subsection 6-721(b); and
  - (2) For waters shown on the buffer protection map requiring a 16.5-foot minimum width buffer, the buffer width will be 16.5 feet as provided in Minn. Stats. § 103F.48, subd. 3 and as measured according to subsection 6-721(b).
- (b) *Measurement.*
- (1) The width of any required buffer on land adjacent to a water requiring a 50-foot buffer shall be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level as provided in Minn. Stats. § 103F.48, subd. 3(c).
  - (2) The width of any required buffer on land adjacent to a water requiring a 16.5-foot minimum width buffer shall be measured in the same manner as for measuring the vegetated grass strip under Minn. Stats. § 103E.021 as provided in Minn. Stats. § 103F.48, subd. 3(c).
- (c) *Use of buffer area.* Except as provided in subsections 6-721(d) and (e) a buffer as defined in this article shall not be put to any use, included but not limited to cultivation farming, which would remove or prevent the permanent growth of perennial vegetation.
- (d) *Exemptions.* The requirement of subsection 6-721(a) does not apply to land that is exempted from the water resources riparian protection requirements under Minn. Stats. § 103F.48, subd. 5.
- (e) *Alternative practices.* As provided in Minn. Stats. § 103F.48, subd. 3(b) an owner of land that is used for cultivation farming may demonstrate compliance with subsection 6-721(a) by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative, and management practice(s) which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in subsections 6-721(a) to (c). The adequacy of any alternative practice allowed under this section shall be based on:
- (1) The Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
  - (2) Common alternative practices adopted and published by the Board of Water and Soil Resources;
  - (3) Practices based on local conditions approved by the soil and water conservation district that are consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or
  - (4) Other practices adopted by the Board of Water and Soil Resources.
- (f) *Nonconformity.* Where the provisions of any statute, other ordinance, or regulation imposes greater restrictions than this article, the provisions of such shall be controlling. The continuation of nonconformities provided for by Minn. Stats. chs. 394 and 462 shall not apply to compliance with this ordinance and Minn. Stats. § 103F.48.
- (Ord. of 10-24-2017, § 4.0)

## **Sec. 6-722. Compliance determinations.**

- (a) *Compliance determinations.* Compliance with the buffer requirements set forth in section 6-721 will be determined by the soil and water conservation district on a parcel by parcel basis pursuant to Minn. Stats. § 103F.48 Subd. 3, Subd. 5, Subd. 6 and Subd. 7 (a). The compliance status of each bank, or edge of a waterbody on an individual parcel will be determined independently.

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(b) *Investigation and notification of noncompliance.*

- (1) When the county identifies a potential noncompliance with the buffer requirements, it will refer the potential noncompliance to the soil and water conservation district and consult as needed with the soil and water conservation district to determine appropriate actions to determine compliance.
- (2) When the county receives a third-party complaint from a private individual or entity, or from another public agency, it will refer the complainant to the soil and water conservation district. The soil and water conservation district will determine, in consultation with the county, the appropriate course of action to document compliance status as provided in Minn. Stats. § 103F.48 Subd.7. On the basis of the evidence gathered in this process, the soil and water conservation district may issue a notification of noncompliance. If the soil and water conservation district does not issue such a notification, the county will not pursue a compliance or enforcement action under Minnesota Statutes § 103F.48 and subsection 6.2.
- (3) At any time during the process set forth in subsections 6-722(b) and (c), the landowner may provide documentation of compliance to the soil and water conservation district.
- (4) Compliance determination. As provided in Minn. Stats. § 103F.48, the soil and water conservation district will evaluate the available documentation, or evaluate or inspect the buffer, or alternative practices to determine if the parcel is in compliance. Upon completion of the evaluation or inspection the soil and water conservation district shall issue a written compliance determination to the landowner, the county and the Board of Water and Soil Resources. The soil and water conservation district may also issue a validation of compliance if applicable and requested by the landowner. If a validation of compliance is issued by the soil and water conservation district, the county shall be included in such notice.

(c) *Corrective action notice.*

- (1) On receipt of a soil and water conservation district notification of noncompliance, the county will issue the landowner a corrective action notice that will:
  - a. Include a list of corrective actions needed to come into compliance with the requirements of Minn. Stats. § 103F.48;
  - b. Provide a timeline for complying with the corrective action notice;
  - c. Provide a compliance standard against which the county will judge the corrective action; and
  - d. Include a statement that failure to respond to this notice may result in the assessment of criminal, civil or administrative penalties.
- (2) The county may send the landowner a combined corrective action notice and administrative penalty order as provided in subsection 6-732(b) so long as the combined notice/administrative penalty order includes all the required elements of both.
- (3) The county shall transmit the corrective action notice by either personal service to the landowner or by depositing the same in the U.S. Mail. If service is made by U.S. Mail, the document is deemed received three business days after the notice was placed in the U.S. Mail. Failure of actual receipt of a corrective action notice that has either been personally served or served by depositing the same in the U.S. Mail shall not be deemed a defense in an enforcement proceeding under section 6-723. The county shall also send a copy of the notice to the soil and water conservation district and the Board of Water and Soil Resources.
- (4) The county may modify the corrective actions and timeline for compliance, in accordance with subsection 6-722(b) and in accordance with the determination of the soil and water conservation

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district, to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

- (5) At any time after receipt of a corrective action notice, the landowner may provide written documentation of compliance to the county, which the county will transmit to the soil and water conservation district. In addition, the landowner may supply information to the county or the soil and water conservation district in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal and/or in accordance with the determination of the soil and water conservation district, the county may make a written modification to the corrective action notice or timeline for compliance. The county should also make a written determination documenting whether the noncompliance has been fully corrected. Any such modification of a compliance determination will be served on the landowner in the manner provided for in subsection 6-722(c). The county shall provide the soil and water conservation district and the Board of Water and Soil Resources a written copy of any modification made pursuant to this provision.
- (6) Pursuant to Minn. Stats. § 103F.48, Subd. 3 (d), the soil and water conservation district may, after an evaluation of the evidence documenting compliance submitted by the landowner or transmitted by the county, issue a written validation of compliance if requested by the landowner. If a validation of compliance is issued, the county shall be included in such notice. Upon receipt by the county of a written compliance determination issued by the soil and water conservation district, the corrective action notice will be deemed withdrawn for the purpose of section 6-723, and the subject property will not be subject to enforcement under that section.

(Ord. of 10-24-2017, § 5.0)

### **Sec. 6-723. Enforcement.**

- (a) *Failure to comply with a corrective action notice issued under section 6-722* The county may, at its own discretion, elect to pursue the failure to comply with a corrective action notice either criminally or through an administrative penalty order as set forth herein.
  - (1) Failure to comply with a corrective action notice issued under section 6-722 constitutes a misdemeanor and shall be punishable as defined by law.
  - (2) The county may issue an administrative penalty order as provided for in Minn. Stats. § 103F.48, subd. 7(b) and (c) and § 103B.101, subdivision 12a to a landowner who has failed to take the corrective action set forth in the corrective action notice. For the administrative penalty order to be effective it must be served on the landowner together with a copy of the corrective action notice or alternatively the county may serve the landowner with a combined corrective action notice and administrative penalty order so long as the combined notice/administrative penalty order includes all the elements of both. Service is effective either by personal service or by depositing the documents set forth herein in the U.S. Mail. Any penalty assessed in the administrative penalty order shall continue to accrue until the violation is corrected as provided in the corrective action notice and administrative penalty order.
- (b) *Administrative penalty order.*
  - (1) *Initial violation.* The penalty for a landowner on a single parcel that has not previously been the subject of an Administrative Penalty Order issued by the County shall be:
    - a. \$0.00 for 11 months after issuance of the corrective action notice;
    - b. \$50.00 per parcel per month for the first six months (180 days) following the time period in a.; and
    - c. \$200.00 per parcel per month after six months (180 days) following the time period in b.

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- (2) *Repeat violation.* The penalty for a landowner on a single parcel that has previously been the subject of an administrative penalty order issued by the county or shall be:
    - a. \$50.00 per parcel per day for 180 days after issuance of the corrective action notice; and
    - b. \$200.00 per parcel per day for after 180 days following the time period in a.
  - (3) *Ongoing penalty assessment.* Any penalty assessed under this section shall continue until the corrective action notice has been satisfied.
  - (4) *Administrative penalty order.* To be valid the administrative penalty order shall include, at a minimum:
    - a. The facts constituting the violation of the riparian protection and water quality practices requirements set forth in this section 6-721 or Minn. Stats. § 103F.48;
    - b. The specific statute and/or ordinance section(s) that has/have been violated;
    - c. A written description of prior efforts to work with the landowner to resolve the violation;
    - d. The amount of the penalty to be imposed;
    - e. The date the penalty will begin to accrue;
    - f. The date that payment of the penalty is due;
    - g. The date by which all or part of the penalty may be forgiven if the landowner has/have complied with the corrective action notice; and
    - h. A statement of the landowner's right to appeal the administrative penalty order.
  - (5) All or part of the penalty may be forgiven based on the correction of the noncompliance by the date specified in the administrative penalty order by the landowner as provided in Minn. Stats. § 103F.48, subd. 7(d).
  - (6) A copy of the administrative penalty order must be sent to the soil and water conservation district and the Board of Water and Soil Resources.
  - (7) An administrative penalty order issued under this section may be appealed to the Board of Water and Soil Resources within 30 days of receipt by the landowner in accordance with the requirements set for the in Minn. Stats. § 103F.48, subd. 9. Any administrative penalty order that is not appealed within the 30-day period shall be deemed final.
- (c) *Administrative penalty order procedures.*
- (1) *Statute of limitations.* Any criminal enforcement action undertaken pursuant to subsection 6-723(a) must be undertaken within two years after the alleged violation was discovered or reasonably should have been discovered by the county. According to Minn. Stats. § 541.07, the county has two years in which to commence an administrative penalty order action after the date the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed, will require adequate time to complete the work and communicate with the landowner involved.
  - (2) *Compliance verification.* Once a landowner has submitted written evidence of correction of the violation set forth in the notice of compliance, compliance must be verified. The county or soil and water conservation district, in coordination with the county, will:
    - a. Review and evaluate all information related to the administrative penalty order to determine if the violation has been corrected;
    - b. Verify compliance by site visit, re-inspection, examination of documentation, or other means as may be reasonable under the facts of the case; and

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c. Document compliance verification.

- (3) *Right to appeal.* Within 30 days after receipt of the administrative penalty order, a landowner may appeal the terms and conditions of an administrative penalty order issued by a county to the Board of Water and Soil Resources as provided in Minn. Stats. § 103F.48, subd. 9. The appeal must be in writing and must include a copy of the administrative penalty order that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally, by U.S. mail, or electronically, to the executive director of the Board of Water and Soil Resources.
- (4) *Penalty due.* Unless the landowner appeals the administrative penalty order as provided in subsection 6-723(c)(3) the penalty specified in the administrative penalty order becomes immediately due and payable to the county as set forth in the administrative penalty order. If, however, the landowner submits written documentation that the violations have been corrected prior to the time the penalty becomes due and payable, the county shall verify compliance pursuant to subsection 6-723(c)(2) and adjust the penalty to an amount the landowner would have owed had the penalty been paid on the date the landowner submitted written documentation of compliance. Written documentation of compliance may include a written validation of compliance issued by the soil and water conservation district.

If the county determines the violation was not fully corrected, the county shall notify the landowner by issuing a written letter of determination and depositing it in the U.S. mail or through personal service. Any determination sent by U.S. Mail shall be deemed received three business days after the letter of determination has been deposited in the U.S. Mail. The landowner shall have an additional 20 days after receipt of the letter of determination to pay the penalty or the time period specified in the administrative penalty order as issued, whichever is later. The penalty will continue to accrue until the violation is corrected as provided in the corrective action notice and administrative penalty order.

- (5) *Referral for collection of penalty.* All penalties and interest assessed under an administrative penalty order must be paid by the landowner within the time specified in this section. All payments shall be made payable to the county. Any penalty or interest not received in the specified time may be collected by the county using any lawful means.
- (6) *Reporting and documentation.* The county will maintain records for any violation of the riparian protection and water quality practices requirements of Minnesota Stats. § 103F.48. Said records will document the following to the extent known or available:
- a. The cause of the violation;
  - b. The magnitude and duration of the violation;
  - c. Documentation showing whether the violation presents an actual or imminent risk to public health and safety;
  - d. Documentation showing whether the violation has the potential to harm to the natural resources of the state;
  - e. A record of past violations;
  - f. Efforts by the soil and water conservation district or county, or the board of water and soil resources to assist the responsible party or parties to become compliant, including written and oral communications with the responsible party or parties; and
  - g. Past and present corrective action efforts by the responsible party or parties.

(Ord. of 10-24-2017, § 6.0)



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**Secs. 6-724—6-729. Reserved.**

## **ARTICLE IX. ENVIRONMENTAL REVIEW**

### **DIVISION 1. GENERALLY**

#### **Sec. 6-730. Purpose.**

The purpose of this article is to establish procedures for the review of proposals for environmental review to ensure consistency and compliance with Minnesota Environmental Review Program and Minnesota Rules Chapter 4410.

(Ord. of 8-24-2021(1), Att. A)

#### **Sec. 6-731. Authority.**

This article is adopted pursuant to Minn. Stats. chs. 116D, 375, 394 or successor statutes, and Minn. R. chapter 4410, or successor rules.

(Ord. of 8-24-2021(1), Att. A)

#### **Sec. 6-732. Definitions and word usage.**

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section. Unless specifically defined herein, terms used in this article shall have the same definition as provided in Minn. Stats. ch. 116D, Minnesota Rules Chapter 4410 and if not defined there, shall have common usage meaning. For purposes of this article, the words "must" and "shall" are mandatory and not permissive unless a different definition appears in this article.

*Environmental assessment worksheet (EAW)* means a brief document which is designed to set out the basic facts necessary to determine whether an EIS is required for a proposed project or to initiate the scoping process for an EIS.

*Environmental impact statement (EIS)* means a detailed written statement as required by Minn. Stats., § 116D.04, subdivision 2a.

*Environmental document* means an EAW, draft EIS, final EIS, substitute review document, and other environmental analysis documents.

*Land use development application* means a land use or zoning application listed in chapter 24 of the Blue Earth County Code.

*Planning agency* means the organization of the planning commission and staff of the land use division of the county property and environmental resources department.

*Planning commission* means the county planning commission.

(Ord. of 8-24-2021(1), Att. A)

### **DIVISION 2. REQUIREMENTS**

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**Sec. 6-733. Applicability.**

This article shall apply to only areas of the county for which the county administers zoning under chapter 24 and the county land use plan. This article does not affect the liability or obligation imposed by Minnesota Statute, Minnesota Rule, federal law, or the requirements of other agencies with regulatory authority.

(Ord. of 8-24-2021(1), Att. A)

**Sec. 6-734. Highest standards prevail.**

Where the conditions imposed by a provision of this article are either more restrictive or less restrictive than comparable provisions or any other applicable law, ordinance, rule, or regulation, the provision that establishes the higher standard for the promotion and protection of the public health, safety, and general welfare shall prevail.

(Ord. of 8-24-2021(1), Att. A)

**Sec. 6-735. Project review.**

The planning agency shall review all proposed projects to determine whether an environmental assessment worksheet (EAW) or environmental impact statement (EIS) is required based on the mandatory categories and thresholds listed in Minnesota Rules Chapter 4410.

(Ord. of 8-24-2021(1), Att. A)

**Sec. 6-736. Environmental review process and procedures.**

When an EAW or EIS is required or otherwise ordered or submitted, the applicable review procedures set forth in the Minnesota Environmental Quality Board regulations for the environmental review program, as authorized by Minnesota Statutes and specified in Minnesota Rules Chapter 4410, shall be followed.

(Ord. of 8-24-2021(1), Att. A)

**Sec. 6-737. Mandatory EAW or EIS.**

An environmental document consistent with Minnesota Rules and the Minnesota Environmental Review Program must be prepared for projects meeting the mandatory EAW or EIS thresholds contained in Minnesota Rules Chapter 4410.

(Ord. of 8-24-2021(1), Att. A)

**Sec. 6-738. Discretionary EAW.**

The county board may require an EAW be prepared on any proposed project that does not meet or exceed the thresholds requiring a mandatory EAW, as listed in Minnesota Rules Chapter 4410, if the board determines that the nature or location of the proposed project may have the potential for significant environmental impacts. The proximity of the proposed site to an area that is considered environmentally sensitive or the potential for the project to have disruptive effects to the health, safety, and general welfare of adjacent land uses. The potential

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impacts of traffic, odor or noise from a proposal on adjacent land uses are factors to be considered in the decision to require an EAW.

(Ord. of 8-24-2021(1), Att. A)

**Sec. 6-739. Information and costs to be provided.**

When the county is the responsible governmental unit for an EAW or EIS, the applicant shall prepare a draft environmental document and supply all information necessary as outlined in Minnesota Rules Chapter 4410. The draft environmental documents shall be accompanied by a review fee as set forth by the county board of commissioners. In addition, the applicant shall pay all costs associated with the preparation and review of an EAW or EIS which is required by state rules or a discretionary EAW ordered by the county board, for any proposed project or action.

(Ord. of 8-24-2021(1), Att. A)

**Sec. 6-740. Prohibition of permit issuance and processing of applications.**

When an EAW or EIS is required or ordered, no permits shall be issued, and no land use development applications shall be accepted for any part of the project until the entire environmental review process is completed as required by Minnesota Rules Chapter 4410.

(Ord. of 8-24-2021(1), Att. A)

**Sec. 6-741. Notification and public hearing.**

In addition to the requirements of the environmental quality board for notification and publication, upon completion of the EAW or EIS for distribution, the planning commission shall hold a public hearing and make a recommendation to the county board. The publication and notifications standards for the planning commission in chapter 24 of the Blue Earth County Code shall be followed and all property owners of record within one mile of the proposed use shall be notified by a written notice in the U.S. mail.

(Ord. of 8-24-2021(1), Att. A)

**Chapter 8 FLOODS<sup>8</sup>**

***ARTICLE I. IN GENERAL***

**Secs. 8-1—8-30. Reserved.**

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<sup>8</sup>Cross reference(s)—Environment, ch. 6; shoreland zoning, ch. 14; streets, roads, highways and other public places, ch. 18; subdivisions, ch. 20; utilities, ch. 22; zoning, ch. 24.

State law reference(s)—Floodplain management, Minn. Stats. § 103F.101 et seq.

## **ARTICLE II. FLOOD DAMAGE PREVENTION**

### ***DIVISION 1. GENERALLY***

#### **Sec. 8-31. Statutory authorization.**

The state legislature has in Minn. Stats. ch. 103F.101, the Floodplain Management Act, and Minn. Stats. ch. 394 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the board of commissioners does ordain the provisions of this article.

(Ord. No. 120, § 1, 3-23-1999)

#### **Sec. 8-32. Findings of fact.**

- (a) The flood hazard areas of the county are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and government services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) Methods used to analyze flood hazards. The regulations of this article are based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the state department of natural resources.

(Ord. No. 120, § 1, 3-23-1999)

#### **Sec. 8-33. Statement of purpose.**

It is the purpose of this article to promote the public health, safety, and general welfare and to minimize those losses described in subsection 8-32(a) by provisions contained in this article.

(Ord. No. 120, § 1, 3-23-1999)

#### **Sec. 8-34. Title and short title of article.**

- (a) Provided by Minn. Stats. ch. 103F.1.101 and Minn. Stats. ch. 394, inclusive, the board of commissioners ordains this article, the Blue Earth County Floodplain Ordinance.
- (b) This article shall be known and may be cited and referred to as the "county floodplain article." When referred to in this article, it shall be known as "this article."

(Ord. No. 120, § 1, 3-23-1999)

#### **Sec. 8-35. Definitions and word usage.**

- (a) *Word usage.* The word "building" shall include the word "structure"; the word "lot" shall include the words "parcel" and "plot"; and the word "shall" is mandatory and not discretionary.

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(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory use or structure* means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

*Administrator* means the county zoning administrator.

*Basement* means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

*Conditional use* means a specific type of structure or land use listed in the official control that may be allowed only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

- (1) Certain conditions as detailed in this article exist; and
- (2) The structure and/or land use conform to the comprehensive land use plan and are compatible with the existing neighborhood.

*Equal degree of encroachment* means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

*Flood* means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in inundation of normally dry areas.

*Flood frequency* means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

*Flood fringe* means that portion of the floodplain outside of the floodway.

*Floodplain* means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

*Floodproofing* means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

*Floodway* means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

*Manufactured home* means a structure, transportable in one or more sections, which in the transportable mode is eight body feet or more in width or 40 body feet or more in length, or when erected on a site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that the term includes any structure which meets the requirements with respect to which the manufacturer voluntarily files a certificate required by the secretary and complies with the standards established under Minn. Stats. ch. 327.

*Manufactured home park* means a contiguous parcel of land which has been planned for the placement of two or more manufactured homes or mobile home lots.

*Nonconforming uses* means a use lawfully in existence on July 21, 1999, and not conforming to the regulations for the district in which it is situated.

*Obstruction* means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse or regulatory floodplain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

*Official land use district map or official zoning map* shall have the same meaning and force of law.

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*Principal use or structure* means all uses or structures that are not accessory uses or structures.

*Reach* means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

*Regional flood* means a flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the flood insurance study.

*Regulatory flood protection elevation* means an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain.

*Structure* means anything constructed or erected on the ground or attached to the ground or on-site utilities including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles, and other similar items not meeting the exemption criteria specified in subsection 8-133(e), manufactured homes, manufactured home parks and placement of travel trailers and travel vehicles.

*Variance* means the waiving by the board of adjustment of the literal provisions of the zoning chapter in cases where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property involved. Variances shall be limited to height, bulk, density and yard requirements.

(Ord. No.120, § 3, 3-23-1999)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 8-36. Jurisdiction of article provisions.**

This article shall apply to all lands within the jurisdiction of the county, designated by the Federal Emergency Management Agency (FEMA) as floodway, flood fringe or general floodplain districts, and incorporated into the official county land use map.

(Ord. No.120, § 2, 3-23-1999)

### **Sec. 8-37. Establishment of official zoning map.**

The official land use map shall include, by reference, all materials attached hereto and declared to be a part of this article. The attached material shall include the flood insurance study for the county prepared by the Federal Insurance Administration dated July 21, 1999, and the flood boundary and insurance rate maps dated March 5, 1990, and flood boundary and insurance rate maps 0025 E, 0040 E, and 0050 E, as revised and dated July 21, 1999. The official land use map shall be on file in the office of the county zoning administrator and in the county land records department.

(Ord. No.120, § 2, 3-23-1999)

### **Sec. 8-38. Regulatory flood protection elevation.**

The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain.

(Ord. No.120, § 2, 3-23-1999)

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### **Sec. 8-39. Interpretation of article provisions.**

In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Ord. No.120, § 2, 3-23-1999)

### **Sec. 8-40. Boundaries.**

The boundaries of the floodplain districts shall be determined by scaling distances on the official land use map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official land use map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the zoning administrator, the board of adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional 100-year flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the board of adjustment and to submit technical evidence.

(Ord. No.120, § 2, 3-23-1999)

### **Sec. 8-41. Abrogation and greater restrictions.**

It is not intended by this article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

(Ord. No.120, § 2, 3-23-1999)

### **Sec. 8-42. Warning and disclaimer of liability.**

The county does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. The county cannot warrant that reliance on this article or any administrative decision made under this article will prevent flood damage.

(Ord. No.120, § 2, 3-23-1999)

### **Sec. 8-43. Referral to other laws.**

If any section of this article references another ordinance, statute, rule or other provision of law, the reference shall be for that other provision of law as currently enacted and as it may be amended or recodified in the future.

(Ord. No.120, § 2, 3-23-1999)

### **Sec. 8-44. Permitted uses.**

Permitted uses of land or buildings as listed in this article, shall be permitted in the districts indicated under the conditions specified. No building or land shall be devoted to any use other than a use permitted in the general floodplain district in which such building, structure or land shall be located, except for the following exceptions:

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Permitted and conditional uses lawfully established and continued in accordance with the provisions of section 24 of the county zoning ordinance (floodplain ordinance), adopted April 12, 1977 or the provisions of this article.

(Ord. No.120, § 3, 3-23-1999)

**Sec. 8-45. Conditional uses.**

Conditional uses of land or buildings, as listed in this article, may be allowed in the districts indicated, subject to the issuance of conditional use permits, in accordance with the provisions of this article.

(Ord. No.120, § 3, 3-23-1999)

**Secs. 8-46—8-70. Reserved.**

*DIVISION 2. ADMINISTRATION<sup>9</sup>*

**Sec. 8-71. Zoning administrator.**

The zoning administrator designated by the county shall administer and enforce this article. If the zoning administrator finds a violation of the provisions of this article, the zoning administrator shall notify the person responsible for such violation in accordance with the procedures stated in section 8-80 pertaining to the penalties for violation of this article.

(Ord. No.120, § 6, 3-23-1999)

**Sec. 8-72. Permits.**

- (a) *Required.* A permit that conforms with the provisions of this article shall be obtained from the zoning administrator prior to the:
  - (1) Erection, addition or alteration of any building, structure or its portion;
  - (2) Use or change of use of a building, structure or land;
  - (3) Change or extension of a nonconforming use; and
  - (4) Placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- (b) *Application.* Application for a permit shall be made in duplicate to the zoning administrator on forms furnished by the county and shall include the following information where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions and elevations of the lot; existing or proposed structures, fill or storage of materials; and the location of the foregoing in relation to the stream channel.
- (c) *State and federal.* Prior to granting a permit or processing an application for a conditional use permit or variance, the zoning administrator shall determine that the applicant has obtained all necessary state and federal permits.

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<sup>9</sup>Cross reference(s)—Administration, ch. 2; zoning, ch. 24.



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(Ord. No.120, § 6, 3-23-1999)

**Sec. 8-73. Certificate of zoning compliance for a new, altered or nonconforming use.**

It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or its part hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a certificate of zoning compliance has been issued by the zoning administrator which verifies that the use of the building or land conforms to the requirements of this article.

(Ord. No.120, § 6, 3-23-1999)

**Sec. 8-74. Construction and use approval.**

- (a) Construction and use of properties within the floodway, flood fringe and general floodplain shall be as provided on applications, plans, permits, variances and certificates of zoning.
- (b) Permits, conditional use permits or certificates of zoning compliance shall be issued on the basis of approved plans and applications and shall authorize only the use, arrangement and construction set forth in such approved plans and applications. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this article, and punishable as provided by section 8-80 pertaining to the penalties for violation of this article.

(Ord. No.120, § 6, 3-23-1999)

**Sec. 8-75. Certification.**

- (a) The applicant shall be required to submit certification by a licensed professional engineer or land surveyor verifying the finished fill and building elevation. Floodproofing measures shall be certified by a licensed professional engineer or architect.
- (b) The zoning administrator shall maintain a record of the elevation of the lowest floor, including the basement, of all new structures and alterations or additions to existing structures in the floodplain. The zoning administrator shall also maintain a record of the elevation to which structures, alterations or additions to structures are floodproofed.

(Ord. No.120, § 6, 3-23-1999)

**Sec. 8-76. Board of adjustment.**

- (a) *Rules.* The board of adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.
- (b) *Administrative review.* The board of adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.
- (c) *Variances.* The board of adjustment may authorize, upon appeal in specific cases, such relief or variance from the terms of this article as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties, as appropriate. In the granting of variances, the board of adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the enabling legislation which justified the granting of the

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variance. No variance shall allow any prohibited use in any district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

- (d) *Hearings.* When an appeal of the zoning administrator's decision is received, or when application for a variance is made, the board of adjustment shall set a hearing date and give notice to interested parties as specified by law. The board of adjustment shall submit a copy of the variance application to the commissioner of natural resources at least ten days prior to the hearing.
- (e) *Decisions.* The board of adjustment shall render a decision on the appeal or variance within 60 days. In passing upon an appeal, the board of adjustment may, so long as such action conforms with the provisions of this article, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the zoning administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the board of adjustment may prescribe appropriate conditions and safeguards such as those specified in subsection 8-78(f)(5), conditions attached to conditional use permits, floodproofing measures, which are in conformity with the purposes of this article. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be a violation of this article punishable under section 8-80, penalties for violation. A copy of all decisions granting variances shall be forwarded to the commissioner of natural resources within ten days of such action.
- (f) *Appeals.* Appeals from any decision of the board of adjustment may be made, as specified in subsection (e) of this section, decisions of the board of adjustment, and pursuant to Minn. Stats. ch. 394.

(Ord. No.120, § 6, 3-23-1999)

### **Sec. 8-77. Flood insurance notice and recordkeeping.**

The zoning administrator shall notify the applicant for a variance that:

- (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
- (2) Such construction below the 100-year or regional flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the National Flood Insurance Program.

(Ord. No.120, § 6, 3-23-1999)

### **Sec. 8-78. Conditional uses.**

- (a) *Generally.* The board of commissioners shall hear and decide applications for conditional uses permissible under this article. Applications shall be submitted to the zoning administrator who shall forward the application to the planning commission for consideration and recommendations.
- (b) *Hearings.* The zoning administrator shall submit a copy of any application for a conditional use permit to the commissioner of natural resources for comments at least ten days prior to the hearing.
- (c) *Conditions and safeguards.* In granting a conditional use permit, the board of commissioners shall prescribe appropriate conditions and safeguards, in addition to those specified in subsection (f) of this section, conditions attached to conditional use permits, which are in conformity with the purposes of this article.

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Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this article punishable under section 8-80 pertaining to the penalties for violation of this article. A copy of all decisions granting conditional use permits shall be forwarded to the commissioner of natural resources within ten days of such action.

- (d) *Procedures.* Procedures to be followed by the county in passing on conditional use permit applications within all floodplain districts are as follows:
- (1) Require the applicant to furnish the following information and additional information as deemed necessary by the county for determining the suitability of the particular site for the proposed use.
  - (2) Plans in triplicate drawn to scale showing the nature, location, dimensions and elevations of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel.
  - (3) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - (4) Transmit one copy of the information described above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.
  - (5) Based upon the technical evaluation of the designated engineer or expert, the county shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- (e) *Factors upon which the decision of the county shall be based.* When approving conditional use applications, the county shall consider all relevant factors specified in other parts of this article, and the following:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - (2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - (10) The safety of access to the property for emergency and ordinary vehicles.
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport, or the floodwaters expected at the site.
  - (12) Such other factors which are relevant to the purposes of this article.

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(f) *Conditions attached to conditional use permits.* Upon consideration of the factors listed in this section, and of the purpose of this article, the county shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this article. Such conditions may include, but are not limited to, the following:

- (1) Modification of water treatment and water supply facilities.
- (2) Limitations on period of use, occupancy and operation.
- (3) Imposition of operational controls, sureties and deed restrictions.
- (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees and other protective measures.
- (5) Floodproofing measures, in accordance with the state building code. The applicant shall submit a plan or document certified by a licensed professional engineer or architect to verify that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(Ord. No.120, § 6, 3-23-1999)

### **Sec. 8-79. Nonconforming uses; use of structures or premises.**

A structure or the use of a structure or premises which was lawful before the adoption or amendment of this article but which does not conform with this article may be continued, subject to the following conditions:

- (1) No such use shall be expanded, changed, enlarged or altered in any way which increases its nonconformity.
- (2) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in this section.
- (3) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this subdivision are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of section 8-103, floodway district and 8-104, flood fringe district for new structures depending upon whether the structure is in the floodway or flood fringe, respectively.
- (4) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to the provisions of this article and section 24-305 of this Code. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.
- (5) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more if its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this article and section 24-305 of this Code. The applicable provisions for establishing new uses or new structures in sections 8-103, 8-104 and 8-105 will apply depending

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upon whether the use or structure is in the floodway, flood fringe or general floodplain district, respectively.

(Ord. No.120, § 6, 3-23-1999)

**Sec. 8-80. Penalties for violation of article.**

- (a) *Generally.* Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor.
- (b) *Other legal remedies.* Nothing contained in this section shall prevent the county from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:
  - (1) In responding to a suspected violation, the zoning administrator and the county may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
  - (2) When a violation is either discovered by, or brought to the attention of, the zoning administrator, the zoning administrator shall investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate department of natural resources and Federal Emergency Management Agency regional office, along with the community's plan of action to correct the violation to the degree possible.
  - (3) The zoning administrator shall notify the suspected party of the requirements of this article and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the zoning administrator may order the construction or development immediately halted until a proper permit or approval is granted by the county. If the construction or development is already completed, then the zoning administrator may either:
    - a. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use of the structure into compliance with the official controls; or
    - b. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.
  - (4) If the responsible party does not appropriately respond to the zoning administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this article and shall be prosecuted accordingly. The zoning administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of this article.

(Ord. No.120, § 6, 3-23-1999)

**Sec. 8-81. Amendments.**

- (a) The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the floodplain. Special exceptions to this rule may be

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permitted by the commissioner of natural resources if he determines that, through other measures, lands are adequately protected for the intended use.

- (b) All amendments to this article, including amendments to the official zoning map, must be submitted to and approved by the commissioner of natural resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The commissioner of natural resources must be given ten days' written notice of all hearings to consider an amendment to this article. Such notice shall include a draft of the article amendment or technical study under consideration.

(Ord. No.120, § 6, 3-23-1999)

**Secs. 8-82—8-100. Reserved.**

*DIVISION 3. ESTABLISHMENT OF ZONING DISTRICTS<sup>10</sup>*

**Sec. 8-101. Designation; enumeration.**

- (a) *Floodway district.* The floodway district shall include those areas designated as floodway on the flood insurance rate map adopted in section 8-37.
- (b) *Flood fringe district.* The flood fringe district shall include those areas designated as floodway fringe. The flood fringe shall constitute those areas shown on the flood insurance rate map, as adopted in section 8-37 as being within zone AE, but being located outside of the floodway.
- (c) *General floodplain district.* The general floodplain district shall include those areas designated as unnumbered A zones on the flood insurance rate map adopted in section 8-37.

(Ord. No.120, § 4, 3-23-1999)

**Sec. 8-102. Compliance with article provisions.**

No new structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations which apply to uses within the jurisdiction of this article. Within the floodway, flood fringe and general floodplain districts, all uses not listed as permitted uses or conditional uses in sections 8-103, 8-104, and 8-105, shall be prohibited. In addition:

- (1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this article and section 8-133, manufactured homes, manufactured home parks, and placement of travel trailers and travel vehicles.
- (2) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this article, section 8-79 and section 24-305.
- (3) As-built elevations for elevated structures must be certified via ground surveys by a land surveyor or professional engineer. Floodproofing techniques must be designed and certified by a licensed

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<sup>10</sup>Cross reference(s)—Zoning, ch. 24.

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professional engineer or architect as specified in the general provisions of this article and as stated in section 8-75.

(Ord. No.120, § 4, 3-23-1999)

**Sec. 8-103. Floodway district.**

- (a) *Permitted uses.* Permitted uses in the floodway district are as follows:
- (1) General farming, pasture grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
  - (2) Industrial-commercial loading areas, parking areas and airport landing strips.
  - (3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming area, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trail.
  - (4) Residential lawns, gardens, parking areas and play areas.
- (b) *Standards for floodway permitted uses.* Standards for floodway permitted uses in the floodway district are as follows:
- (1) The use shall have a low flood damage potential.
  - (2) The use shall be permissible in the underlying zoning district if one exists.
  - (3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
- (c) *Conditional uses.* Conditional uses in the floodway district are as follows:
- (1) Extraction and temporary storage of sand, gravel and other materials.
  - (2) Marinas, boat rentals, docks, piers, wharves and water control structures.
  - (3) Railroads, streets, bridges, utility transmission lines and pipelines.
  - (4) Storage yards for equipment, machinery or materials.
  - (5) Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of subsections 8-133(d)—(g).
  - (6) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.
- (d) *Standards for floodway district conditional uses.*
- (1) All uses. No structure (temporary or permanent), fill (excluding fill for roads, bridges and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reaches affected.
  - (2) All floodway conditional uses shall be subject to the procedures and standards contained in section 8-78.
  - (3) The conditional use shall be permissible in the underlying zoning district.

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- (4) Fill.
- a. Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
  - b. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a longterm site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
  - c. As an alternative, and consistent with subsection (d)(4)b of this section, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the county has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be recorded with the property in the office of the county recorder.
- (e) *Storage of materials and equipment.* Standards for storage of materials and equipment in the floodway district are as follows:
- (1) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
  - (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the county.
    - a. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minn. Stats. ch. 103F. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed within the floodway.
    - b. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood, and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(Ord. No.120, § 4, 3-23-1999)

#### **Sec. 8-104. Flood fringe district (flood fringe).**

- (a) *Permitted uses.* Permitted uses in the flood fringe district shall be those uses of land or structures listed as permitted uses in the underlying zoning use districts. All permitted uses shall comply with the standards for flood fringe permitted uses listed in subsection (b) of this section, and the standards for all flood fringe permitted and conditional uses listed in subsection (g) of this section.
- (b) *Standards for flood fringe permitted uses.*
  - (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, including the basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be at or above the regulatory flood protection elevation, and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.
  - (2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 700 square feet for the outside dimension at ground level may be internally floodproofed in accordance with subsection 8-103(d), standards for floodway conditional uses, and subsection (d) of this section.
  - (3) The cumulative placement of fill exceeding 1,000 cubic yards of fill located on any parcel shall be a conditional use.



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- (4) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- (5) The provisions of subsection (g) of this section shall apply.
- (c) *Conditional uses.* Any structure in the flood fringe district that is not elevated on fill or floodproofed in accordance with subsections (b)(1) and (b)(2) of this section shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards, criteria and evaluation procedures specified in subsections (e), (f) and (g) of this section, flood fringe standards, and subsections 8-78(b) and (c).
- (d) *Accessory structures in the flood fringe district.*
- (1) Accessory structures shall not be designed for human habitation.
- (2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstructions to the flow of floodwaters.
- a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
- b. So far as practicable, structures shall be placed at or above the flood flow lines of adjoining structures.
- c. Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the state building code, provided that the accessory structure constitutes a minimal investment, does not exceed 700 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards, as appropriate:
1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.
2. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevations or properly floodproofed.
- (e) *Standards for flood fringe conditional uses.*
- (1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevations. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if:
- a. The enclosed area is above grade on at least one side of the structure;
- b. Is designed to internally flood and is constructed with flood resistant materials; and
- c. Is used solely for parking of vehicles, building access or storage.
- The above-noted alternative elevation methods are subject to the additional standards of this subsection (e).
- (2) Design and certification. The structure's design and as-built condition must be certified by a licensed professional engineer or architect as being in compliance with the general design standards of the state building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities are at or above the regulatory flood protection elevation or are

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- designed to prevent floodwater from entering or accumulating within these components during times of flooding.
- (3) Specific standards for abovegrade, enclosed areas. Abovegrade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
- a. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters to equalize pressures, the bottom of all openings shall be no higher than one foot above grade. Opening may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
  - b. That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and shall be used solely for building access, parking of vehicles or storage.
- (4) Basements, as defined in section 8-35, shall be subject to the following:
- a. Residential basement construction shall not be allowed below the regulatory flood protection elevation.
  - b. Nonresidential basements may be allowed below the regulatory flood protection elevation, provided that the basement is structurally dry floodproofed in accordance with subsection (e)(4)c of this section.
  - c. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the state building code, and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.
  - d. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, a conditional use permit is required and an erosion/sedimentation control plan must be submitted. The plan must clearly specify methods to be used to stabilize the fill on-site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a licensed professional engineer or other qualified individual acceptable to the county. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (f) *Storage of materials and equipment in the flood fringe district.*
- (1) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
  - (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the county.
  - (3) The provisions of subsection (g) of this section, shall also apply.
- (g) *Standards for all flood fringe uses.*
- (1) All new principal structures must have vehicular access at or above the regulatory flood protection elevation. If a variance to this requirement is granted, the board of adjustment must specify limitations

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on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

- (2) Commercial uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.
  - (3) Manufacturing and industrial uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection (g)(2) of this section. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
  - (4) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable methods. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multistructure or multilot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
  - (5) Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse of drainage system where a floodway or other encroachment limit has not been specified on the official land use map.
- (h) *Standards for travel trailers and travel vehicles.* These standards are contained in section 8-133, manufactured homes, manufactured home parks, and placement of travel trailers and travel vehicles. All manufactured homes must be securely anchored in a manner which complies with installation standards contained in Minn. Stats. ch. 327.31—327.35, the Minnesota Manufactured Home Building Code, to an adequate foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(Ord. No.120, § 4, 3-23-1999)

### **Sec. 8-105. General floodplain district.**

- (a) *Permitted uses in the general floodplain district.*
  - (1) The uses listed in subsection 8-103(a) shall be permitted uses.
  - (2) All other uses shall be subject to the floodway/flood fringe evaluation criteria set forth in subsection (b) of this section, procedures for floodway and flood fringe determinations. Section 8-103 pertaining to the floodway district, shall apply if the proposed use is in the floodway district and section 8-104 pertaining to the flood fringe district, shall apply if the proposed use is in the flood fringe district.
- (b) *Procedures for floodway and flood fringe determinations within the general floodplain district.*
  - (1) Upon receipt of an application for a conditional use permit for a use within the general floodplain district, the applicant shall furnish the following information as is deemed necessary by the zoning administrator for the determination of the regulatory flood protection elevation and to determine whether the proposed use is within the floodway or flood fringe district:

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- a. Typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
  - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
  - c. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
  - d. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, parts 6120.5000—6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the department of natural resources' area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
    - 1. Estimate the peak discharge of the regional flood.
    - 2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
    - 3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
  - e. The zoning administrator shall present the technical evaluation and findings of the designated engineer or expert to the board of commissioners. The board of commissioners must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary or deny the permit application. The board of commissioners, prior to the official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the department of natural resources or the planning commission for review and comment. When the floodway and flood fringe boundaries have been determined, the board of commissioners shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of section 8-103 and section 8-104.
- (c) *Floodway/flood fringe determinations in the general floodplain district.* In the general floodplain district, applicants shall provide the information required in subsection (b) of this section to determine the 100-year flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.
- (d) *Removal of special flood hazard area designation.* The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multistructure or multilot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(Ord. No.120, § 4, 3-23-1999)

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**Secs. 8-106—8-130. Reserved.**

*DIVISION 4. GENERAL REGULATIONS*

**Sec. 8-131. Subdivisions; review criteria.**

- (a) Subdivision of all land within the floodway, flood fringe or general floodplain districts shall comply with chapter 20, pertaining to subdivisions. No land shall be subdivided which is unsuitable because of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation.
- (b) All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this article and chapter 20, and shall have road access both to the subdivision and to the individual building sites at or above the regulatory flood protection elevation.
- (c) For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(Ord. No.120, § 5, 3-23-1999)

Cross reference(s)—Subdivisions, ch. 20.

**Sec. 8-132. Public utilities, railroads, roads and bridges.**

- (a) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located in the floodplain shall be floodproofed in accordance with the state building code or elevated to the regulatory flood protection elevation.
- (b) *Public transportation facilities.* Railroad tracks, roads and bridges to be located within the floodplain shall comply with section 8-103 pertaining to the floodway district and section 8-104 pertaining to the flood fringe district. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- (c) *On-site sewage treatment and water supply systems.* Where public utilities are not provided:
  - (1) On-site water supply systems must be designed in accordance with Minnesota Pollution Control Agency's 7080 Rules governing on-site wastewater treatment systems and the county individual sewage treatment system ordinance, as amended in the future; and
  - (2) New or replacement on-site sewage treatment systems must be designed in accordance with Minnesota Pollution Control Agency's 7080 Rules governing on-site wastewater treatment systems and the county individual sewage treatment system ordinance, as amended in the future. Any sewage treatment system designed in accordance with these current standards shall be determined to be in compliance with this article.

(Ord. No.120, § 5, 3-23-1999)

Cross reference(s)—Utilities, ch. 22.

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**Sec. 8-133. Manufactured homes, manufactured home parks, and placement of travel trailers and travel vehicles.**

- (a) *New manufactured home parks and expansions to existing manufactured home parks.* New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by section 8-131, chapter 20 pertaining to subdivisions and chapter 24 pertaining to zoning.
- (b) *Placement of new or replacement manufactured homes.* The placement of a new or replacement manufactured home in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with section 8-104 pertaining to the flood fringe district. If vehicular road access for preexisting manufactured home parks is not provided in accordance with subsection 8-104(g)(1), then replacement manufactured homes will not be allowed until the property owner raises the road to comply with subsection 8-104(g)(1), or develops a flood warning emergency plan acceptable to the county.
- (c) *Anchoring of manufactured homes.* All manufactured homes must be securely anchored in a manner which complies with installation standards contained in Minn. Stats. ch. 327.31 through 327.35, the Minnesota Manufacture Home Building Code, to an adequate foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- (d) *Travel trailers and travel vehicles.* Travel trailers and travel vehicles that do not meet the exemption criteria specified in subsection (e) of this section shall be subject to the provisions of this article and as specifically spelled out in subsections (f) and (g) of this section.
- (e) *Exempted travel trailers and travel vehicles.* Travel trailers and travel vehicles are exempt from the provisions of this article if they are placed in any of the areas listed in subsection (f) of this section and if they meet the following criteria:
  - (1) Have current licenses required for highway uses.
  - (2) Are highway ready, meaning on wheels, or that the internal jacking system is attached to the side only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
  - (3) The travel trailer or travel vehicle and associated use must be permissible in any preexisting, underlying zoning use district.
- (f) *Areas exempted for placement of travel/recreational vehicles.*
  - (1) Individual lots or parcels of record.
    - a. Existing commercial recreational vehicle parks or campgrounds.
    - b. Existing condominium type associations.
  - (2) Travel trailers and travel vehicles exempted in subsection (e) of this section lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the travel trailer/travel vehicle or for an accessory structure such as a garage or storage building. The travel trailer/travel vehicle, and all additions and accessory structures, will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use restrictions specified in section 8-103, and section 8-104.
- (g) *New commercial travel trailer or travel vehicle parks or campgrounds.* New commercial travel trailer or travel vehicle parks or campgrounds, new residential type subdivisions and condominium associations, and the

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expansion of any existing similar use shall be subject to the requirements of chapter 20, chapter 24, and the following:

- (1) Any new or replacement travel trailer or travel vehicle will be allowed in the floodway or flood fringe districts, provided that the trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with subsection 8-104(g)(1). No additional fill shall be placed in the floodway district to meet the requirements of this article.
- (2) All new or replacement travel trailers or travel vehicles not meeting the criteria of subsection (g)(1) of this section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of section 8-87, conditional uses. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Such plan shall be prepared by a licensed engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with subsection 8-132(c).

(Ord. No.120, § 5, 3-23-1999)

## **Chapter 10 MASS GATHERINGS<sup>11</sup>**

### ***ARTICLE I. IN GENERAL***

**Secs. 10-1—10-30. Reserved.**

### ***ARTICLE II. LICENSE***

**Sec. 10-31. Required.**

- (a) *Generally.* No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell, or sell or give tickets to an actual or reasonably anticipated assembly of 1,000 or more people, not including event staff, whether on public or private property, unless a license permitting a large assembly in the county has first been approved by the board of commissioners and issued by the county administrator, application for which must be made to the county administrator on the prescribed the county form at least 60 days in advance of the assembly. When applying for such license, the sponsor must submit certified copies of other required state or county licenses and/or permits necessary to support the application. Such a license issued to one person shall permit such person to engage in any lawful activity in connection with the holding of the licensed assembly. Upon receipt of an application, the county administrator shall refer the application to the director of environmental services or the director's designated representative for a determination of compliance with the licensing requirements. The designated representative shall then present his recommendations to the board of commissioners for their approval.

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<sup>11</sup>Cross reference(s)—Parks and recreation, ch. 12; streets, roads, highways and other public places, ch. 18; zoning, ch. 24.

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- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- Assembly* means a company of persons gathered together at any location at any single time for any purpose.
- Person* means any individual, partnership, corporation, firm, company, association, society or group.
- (c) *Fees.* A separate license shall be required for each day and each location in which 1,000 people or more assemble or can reasonably be anticipated to assemble. For the purpose of defraying inspection expenses, the minimum fee for each license shall be \$100.00 and shall be payable to the county director of finance. Additional fees may be charged by the environmental services department based upon their estimation of actual costs for employee time, law enforcement and emergency services, and overhead costs. The fees may be waived at the discretion of the board of commissioners.
- (d) *Maximum number of assembled persons.* A licensee shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to or permit to assemble at the licensed location more than the maximum permissible number of people.
- (e) *Sound restrictions.* The licensee shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly.
- (f) *Applicability of article provisions.* This article shall not apply to any regularly established event, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies which do not exceed the maximum seating capacity of the structure where the assembly is held, or to organizations which may regularly operate public events on their private property pursuant to a conditional use permit or determined to be an existing legal nonconforming use prior to the passage of this article for assemblies of less than 1,000 people. Organizations regularly operating outdoor public events must secure a license pursuant to this article for assemblies which exceed 1,000 people. This article shall not apply to the county fair held on regularly established fairgrounds. Nothing in the article shall apply to any territory embraced within the limits of any city, either home rule charter city as defined by Minn. Stats. § 410.015 or statutory city as defined by Minn. Stats. § 412.016.
- (Ord. of 8-22-2000, § I)

### **Sec. 10-32. Applicant requirements.**

- (a) *Generally.* The following requirements apply unless the board of commissioners, after considering recommendations from the environmental services director or the director's designated representative, makes a written determination, attached to the application, that a particular requirement may be waived or reduced. Such waiver or reduction of any requirement shall be based upon individual factors relative to a particular mass gathering. Such factors shall include, but are not limited to, such matters as its particular nature, length of time, geographical location, topographical factors, time of day, and time of year. The board of commissioners will reduce or waive any requirement only if they are fully satisfied that such reduction or waiver will not be detrimental to the public nor diminish in any way the safety or well-being of the general public and those attending such mass gathering.
- (b) *Preliminary requirements for issuance.* Before any license may be issued, the applicant shall first:
- (1) Determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly.
  - (2) Submit, together with the application, a separate, detailed plan by the applicant for each requirement set forth in this section, detailing how the applicant shall comply with each of these requirements.



Within ten days prior to the start of the assembly, local authorities may inspect to determine whether the requirements of this section have been met.

(c) *Enumeration of requirements.* The requirements are as follows:

- (1) *Fencing.* A fence or barrier (sufficient to prevent ingress/exit except at established gates) completely enclosing the proposed assembly grounds of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have sufficient entrances and exits to allow easy movement into and out of the assembly grounds and provide traffic control onto established public road systems. Such plans shall be approved by the county sheriff. Plans shall set forth the manner of fencing, the location of the assembly and the type and place of gates contained in such fence.
- (2) *Drinking water.* Potable water, meeting all federal and state requirements for sanitary quality, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person, per day. Where the assembly is to continue for more than 12 hours, the minimum needs for water for bathing purposes shall be determined by the designated representative. The plans for supplying potable water shall include the source, amount available and location of outlets.
- (3) *Toilets.* Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled. Plans for providing toilet and lavatory facilities shall detail the source, number and location, type and means of disposing of waste deposited. If alcoholic beverages are served, additional toilets are required.
- (4) *Waste disposal.* A sanitary method of disposing of solid waste in compliance with state and local laws and regulations sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person, each day, together with a plan for holding and collecting all such waste at least once each day of the assembly, and sufficient trash containers and personnel to perform tasks. Plans shall detail the number and types of facilities for holding, collecting and disposing of solid waste material.
- (5) *Medical care.* The sheriff or the sheriff's designee is the medical authority and will include recommendations for the provision of emergency medical services in coordinating the public safety requirements for large assemblies. They may consult with medical providers to obtain a professional assessment of the anticipated medical service needs required for an event based on the specific event factors enumerated in this section. The following guidelines shall be considered as minimum standards for planning purposes. The county may deviate from these standards based upon the professional medical assessment, either increasing or decreasing the requirements:

|                       |   |
|-----------------------|---|
| 1,000 to 1,500 people | One full-time, on-site person trained as a first responder/EMT according to NHTSA curriculum.                           |
| 1,500 to 3,000 people | One full-time, on-site state registered paramedic.  |
| 3,000 to 5,000 people | One fully staffed advanced life support ambulance (ALS) on-site, licensed by the state EMS regulatory board.            |
| 5,000 or more people  | One fully staffed ALS ambulance on-site and a first aid station staffed according to the medical authority of designee. |

An enclosed, covered structure shall be provided where medical treatment may be rendered when the assembly is for more than 5,000 people. Plans for providing medical services shall include the location and type of any on-site facilities, names, and addresses, of the emergency medical services provider.

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- (6) *Lighting.* If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five footcandles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly. Plans for illumination shall detail the location of the lighting, including the source and amount of power.
- (7) *Parking.* A parking area sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons. Plans for parking vehicles shall include the size and location of lots, points of highway access and interior roads, including routes between highway access and parking lots.
- (8) *Emergency communications.* Availability of minimum service for maintaining communication for receiving and transmitting emergency messages which minimum service is considered to be either one telephone line or a mobile telephone unit. If, in the opinion of the designated representative, the nature of the gathering, the size of the gathering, or any other factors which might be present for a particular gathering are such as to require more than the minimum service, they shall readily require additional service. Plans for such communications service shall include the source, number and location of the communications available.
- (9) *Security.* Provisions for security, traffic and narcotics control are required sufficient to meet the requirements of local authorities and any requirements of the state department of public safety. Regularly employed, off-duty, state-licensed law enforcement officers or protective agents licensed in the state or other individuals deemed qualified by the sheriff, working directly under the supervision of the licensed law enforcement officers, sufficient to provide adequate security for the maximum number of people to be assembled shall be physically present, radio-equipped, and in radio contact with regular police or the sheriff's department as follows:
- From 1,000 people to 2,000 people: four officers.
- Over 2,000 people: Additional officer for each 500 people over 2,000.
- Plans for security shall detail the number of officers to be provided, their credentials and hours of availability. The sheriff may recommend deviation from these standards based on a professional assessment of security needs due to the specific event factors enumerated in this section.
- (10) *Fire protection.* Satisfactory fire protection shall be provided by the sponsor which may include, but not be limited to, the following: fire alarms, extinguishing devices, fire lanes, and shall be sufficient to meet all applicable state laws and local regulations which are in effect or may be set forth by the county and sufficient emergency personnel to efficiently operate the required equipment will be provided by the sponsor. The applicant shall provide written notice to the applicable fire department and the state fire marshal of the license application at least five days before the date the application is considered by the board of commissioners. Plans for providing fire protection shall detail the number of fire alarms, extinguishing devices, fire lanes, their location, and the name and address of the person in charge of providing fire protection.
- (11) *Noise restrictions.* All reasonably necessary precautions shall be taken to ensure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly. Operation after 9:00 p.m. shall be conducted in a manner so as to not unreasonably disturb the sleep of neighboring residents. Plans for sound control shall detail the manner and method to be used for sound amplification, if any, including number, location and power of amplifiers and speakers.
- (12) *License availability.* Provision shall be made that the licensee or a representative of the licensee shall be in a position to be contacted by the local authorities and law enforcement personnel inside the assembly at any time during the time of the assembly. Plans shall detail the method by which local authorities and law enforcement personnel may remain in contact with the licensee or licensee

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representative during the time of the assembly and a period of at least two hours before and two hours after the assembly.

- (13) *Food.* If food is to be sold or distributed during the assembly, provision shall be required to ensure that the methods of and the facilities for the storage, refrigeration, cooking, service and trash disposal of food are adequate and in compliance with any rules and regulations of the state department of health and local health authorities. Plans for food concessions shall set forth the names and addresses of all concessionaires, together with their license or permit numbers; location of food concessions on the grounds; and method for storage, refrigeration, cooking, service and trash disposal.
- (14) *Camping.* If camping is to be permitted on the grounds of the mass assembly, provisions shall be made for adequate camping facilities. Plans for camping facilities, if any, shall include the number and type of facilities available and their location, together with any other pertinent information regarding camping facilities.
- (15) *Advertising.* The licensee shall not place advertising within the right-of-way of any public roadway. All advertising signage, including directional signage, must be removed within 24 hours of the end of the assembly.
- (16) *Alcoholic beverages.* The licensee must obtain applicable licenses if serving alcoholic beverages. Only 3.2 percent malt liquor, wine or equivalents may be served; no intoxicating liquor.
- (17) *Liability insurance.* A liability insurance policy from an insurance company licensed to do business in the state, providing liability coverage in the minimum amount of \$1,000,000.00, in the name of the sponsor or owner of the premises for any injuries or damages suffered by anyone as a consequence of the negligence of the sponsor, its agents, employees, concessionaires or other parties involved in the mass gathering, arising out of the operation of the mass gathering. Such policy shall contain a clause indemnifying and holding harmless the county or any of its agents, officials, servants and employees from any liability or causes of action which might arise by reason of the granting of this license.
- (18) *Bond.* A bond filed with the county administrator, either in cash or underwritten by a surety company licensed to do business in the state, in the minimum amount of \$10,000.00 which shall indemnify and hold harmless the county or any of its agents, officials, servants and employees from any liability or causes of action which might arise by reason of the granting of this license, payment of employees for services rendered by the county, and from any costs incurred in cleaning up any waste material produced or left by the assembly. The board of commissioners may require an increase in the amount of the bond, if by the nature or the size of the event an increased risk to the county is presented.
- (19) *Americans with Disabilities Act.* Event organizers shall comply with those provisions of the Americans with Disabilities Act that pertain to parking and provision of drinking water and sanitary facilities.

(Ord. of 8-22-2000, § II)

### **Sec. 10-33. Application.**

- (a) Application for a license permitting a large assembly in the county for an actual or anticipated assembly of 1,000 or more persons shall be made in writing to the board of commissioners through the office of the county administrator at least 60 days in advance of such assembly.
- (b) The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of a corporation, by all partners in the case of a partnership, or by all officers of an unincorporated association, society, or group or, if there are no officers, by all members of such association, society or group.

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- (c) The application shall contain:
- (1) The name and residence address of the sponsors, together with the address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the record owners of all such property.
  - (2) Written permission from the owners and tenants that the applicant has permission to use such property for an assembly of 1,000 or more persons for the purposes to which the assembly is being gathered.
  - (3) The nature or purpose of the assembly.
  - (4) The total number of days and/or hours during which the assembly is to last.
  - (5) The maximum number of persons, not including event staff, which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly.
  - (6) The maximum number of tickets to be issued, sold or distributed.
  - (7) The plans of the applicant as required by section 10-32.
- (d) The application shall be accompanied by the minimum license fee of \$100.00 for each day and for each event location. As provided for in subsection 10-31(c), the board of commissioners may, by resolution, access additional fees to compensate for the extra county services required by the event.

(Ord. of 8-22-2000, § III)

#### **Sec. 10-34. Issuance.**

The application for a license shall be processed promptly by the designated representative. The license shall be issued, subject to section 10-35, or denied no later than ten days prior to the event.

(Ord. of 8-22-2000, § IV)

#### **Sec. 10-35. Revocation.**

The license may be revoked by the board of commissioners or by the environmental services director or the director's designated representative at any time, if any of the conditions necessary for the issuance of or contained in the license are not complied with or if any condition previously met ceases to be complied with.

(Ord. of 8-22-2000, § V)

#### **Sec. 10-36. Enforcement of article provisions.**

- (a) The provisions of this article may be enforced by injunction in any court of competent jurisdiction.
- (b) The holding of an assembly in violation of any provision or condition contained in this article shall be deemed a public nuisance and may be abated as such.

(Ord. of 8-22-2000, § VI)

## **Chapter 11 OFFENSES AND MISCELLANEOUS PROVISIONS**

**ARTICLE I. IN GENERAL**

**Secs. 11-1—11-30. Reserved.**

**ARTICLE II. JUVENILE CURFEW**

**Sec. 11-31. Findings And Purpose.**

- (a) In recent years, there has been an increase in juvenile victimization and crime. At the same time, the crimes committed by and against juveniles have become more violent. A significant percentage of juvenile crime occurs during curfew hours.
- (b) Because of their lack of maturity and experience, juveniles are particularly susceptible to becoming victims of older perpetrators. The younger a person is, the more likely he or she is to be a victim of crime.
- (c) While parents have the primary responsibility to provide for the safety and welfare of juveniles, Blue Earth County also has a substantial interest in the safety and welfare of juveniles. Moreover, the county has an interest in preventing juvenile crime, promoting parental supervision, and providing for the wellbeing of the general public.
- (d) A county-wide curfew will reduce juvenile victimization and crime and will advance public safety, health, and general welfare.

(Ord. of 7-19-2016, § 1)

**Sec. 11-32. Definitions.**

*Emergency* means a circumstance or combination of circumstances requiring immediate action to prevent property damage, serious bodily injury or loss of life.

*Establishment* means any privately-owned place of business to which the public is invited, including but not limited to any place of amusement, entertainment, or refreshment.

*Guardian* means an adult appointed pursuant to Minn. Stats. § 525.6155 or § 525.6165 who has the powers and responsibilities of a parent as defined by Minn. Stats. § 525.619.

*Juvenile* means a person under the age of 18. The term does not include persons under 18 who are married or have become legally emancipated.

*Parent* means birth parents, adoptive parents, and step-parents.

*Proprietor* means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

*Public place* means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

*Responsible adult* means a person 18 years or older specifically authorized by law or by a parent or guardian to have custody and control of a juvenile.

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*Serious bodily injury* means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any body part or organ.

(Ord. of 7-19-2016, § 2)

### **Sec. 11-33. Prohibited acts.**

- (a) (1) It is unlawful for a juvenile age 12 and under to be present in any public place or establishment within Blue Earth County, any time between 9:00 p.m. and 5:00 a.m.
- (2) A law enforcement officer may not issue a citation, detain a child or take a child into custody based on a violation of subsection 11-33(a)(1) unless the law enforcement officer, after speaking with the child and considering the facts and surrounding circumstances:
- a. Reasonably believes that the child has violated subsection 11-33(a)(1); and
  - b. Reasonably believes that none of the exceptions in subsection 11-34(a) apply.
- (b) (1) It is unlawful for a juvenile, age 13 through age 17, to be present in any public place or establishment within the county, any time between 11:00 p.m. and 5:00 a.m.
- (2) A law enforcement officer may not issue a citation, detain a child or take a child into custody based on a violation of subsection 11-33(b)(1) unless the law enforcement officer, after speaking with the child and considering the facts and surrounding circumstances:
- a. Reasonably believes that the child has violated subsection 11-33(b)(1); and
  - b. Reasonably believes that none of the exceptions in subsection 11-34(a) apply.
- (c) It is unlawful for a parent or guardian of a juvenile knowingly, or through negligent supervision, to permit the juvenile to be in any public place or establishment within the county during the hours prohibited in paragraphs (a) and (b) of this section.
- (d) It is unlawful for a proprietor of an establishment within the county to knowingly permit a juvenile to remain in the establishment or on the establishment's property during the hours prohibited in paragraphs (a) and (b) of this section.

If the proprietor is not present at the time of the curfew violation, the responding officer shall leave written notice of the violation with an employee of the establishment. A copy of the written notice shall be served upon the establishment's proprietor personally or by certified mail.

(Ord. of 7-19-2016, § 3)

### **Sec. 11-34. Exceptions.**

- (a) It is an affirmative defense for a juvenile to prove that:
- (1) The juvenile was accompanied by his or her parent, guardian, or other responsible adult.
  - (2) The juvenile was engaged in a lawful employment activity or was going to or returning home from his or her place of employment.
  - (3) The juvenile was involved in an emergency situation.
  - (4) The juvenile was going to, attending, or returning home from an official school, religious, or other recreational activity sponsored and/or supervised by a public entity or a civic organization.
  - (5) The juvenile was on an errand at the direction of a parent or guardian.

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- (6) The juvenile was exercising First Amendment rights protected by the United States Constitution or Article I of the Constitution of the State of Minnesota.
  - (7) The juvenile was engaged in interstate travel.
  - (8) The juvenile was on the public right-of-way boulevard or sidewalk abutting the property containing the juvenile's residence or abutting the neighboring property, structure, or residence.
- (b) It is an affirmative defense for a proprietor of an establishment to prove that:
- (1) The proprietor or employee reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may be established pursuant to Minn. Stats. § 340A.503, subd. 6, or other verifiable means, including, but not limited to, school identification cards and birth certificates.
  - (2) The proprietor or employee promptly notified the responsible law enforcement authority that a juvenile was present on the premises of the establishment during curfew hours.
- (Ord. of 7-19-2016, § 4)

**Sec. 11-35. Penalty.**

- (a) Violation of subsection 11-33(a) or (b) will be prosecuted pursuant to Minn. Stats. § 260B.235 and will be subject to the penalties therein.
  - (b) Violation of subsection 11-33(c) or (d) is a misdemeanor and will be subject to the penalties set forth in Minn. Stats. § 609.03.
- (Ord. of 7-19-2016, § 5)

**Sec. 11-36. Review.**

The county board shall conduct yearly reviews of this article to assess the effectiveness of and continuing need for a juvenile curfew. Prior to the annual review, the county attorney shall prepare and submit a report to the county board evaluating violations of this article and juvenile crime and victimization during the preceding year.

(Ord. of 7-19-2016, § 6)

## **Chapter 12 PARKS AND RECREATION<sup>12</sup>**

### **ARTICLE I. IN GENERAL**

**Sec. 12-1. Purpose of chapter.**

The purpose of this chapter, which is enacted pursuant to state statutes, is to secure the quiet, orderly, and suitable use and enjoyment of public park reserves, county recreation areas, county-wide trail systems, wildlife

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<sup>12</sup>Cross reference(s)—Environment, ch. 6; mass gatherings, ch. 10; streets, roads, highways and other public places, ch. 18.

State law reference(s)—Authority of county boards to acquire land for parks, Minn. Stats. § 375.18, subd. 12.

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sanctuaries, forests, historical sites, and public access to lakes, rivers and streams, in parks established by the county or the state, and to further the safety, health, comfort and welfare of all persons in their use.

(Ord. No. 410, § 1)

### **Sec. 12-2. Title of chapter.**

This chapter shall be known as the Parks Ordinance of Blue County, and will be referred to in this chapter as "this chapter."

(Ord. No. 410, § 2)

### **Sec. 12-3. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means any person or organization seeking a permit to use or conduct an activity in a park or recreation area.

*County park* means a park organization in the county.

*Drug* means any substance defined as a controlled substance by state statutes or federal law or regulations.

*Intoxicating liquors* means any liquor which is intoxicating pursuant to state law and includes ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight. Nonintoxicating malt liquor means a beverage containing not more than 3.2 percent alcohol by weight.

*Motorized recreational vehicle* means any self-propelled, off-the-road, or all-terrain conveyance including, but not limited to, a snowmobile, minibike, amphibious vehicle, motorcycle, go-cart, trail bike or dune buggy.

*Park* means any land or water area, and all facilities thereon, established as a park by the county pursuant to state statutes.

*Parks visitor* means any person, firm, partnership, association, corporation, governmental unit, company or organization of any kind within a park.

*Permit* means any written license issued by or under the authority of the board of commissioners permitting a use, event or activity in the park organization.

*Public works director* means the person designated by the board with the responsibility for the operation and management of the parks, or authorized representative.

*Vehicle* means any wheeled conveyance, whether motor-powered, animal-drawn, or self-propelled. The terms shall include any trailer in tow of any size, kind or description. Exception is made for wheelchairs, baby carriages and vehicles in the service of the county parks department.

*Weapon* means any device from which shot or a projectile of any type can be discharged by means of an explosive, gas or compressed air, or otherwise propelled including, but not limited to, firearms, bows and arrows, slings and spring guns.

*Wildlife* means all living creatures, not human, wild by nature, endowed with sensation and power or voluntary motion, including quadrupeds, mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks.

(Ord. No. 410, § 3)

Cross reference(s)—Definitions generally, § 1-2.



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## **Sec. 12-4. General conduct.**

It shall be unlawful for any person to:

- (1) Use threatening, abusive, insulting or obscene language, or to act in an indecent manner, or to do any act which constitutes a breach of the public peace in a park.
- (2) To use or to have in their possession glass beverage containers, or to use or have in their possession intoxicating liquors or nonintoxicating liquors in containers larger than one quart.
- (3) To be under the influence of intoxicating liquors or nonintoxicating liquors or to use, be in possession of, or be under the influence of drugs.
- (4) Disturb, harass or interfere with any park visitor or any park visitor's property.
- (5) Deposit, scatter, drop or abandon in any park any bottles, cans, broken glass, sewage, waste, or other material, except in receptacles provided for such purposes.
- (6) Throw, discharge or place in or upon any lake, stream, creek, pond or other body of water in or adjacent to a park, or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, liquid, solid or gas.
- (7) Use any land or body of water within a park for a starting or landing field for aircraft, balloons or parachutes without a permit from the board of commissioners, the public works director, or authorized representative.
- (8) Start a fire in a park, except a small fire for culinary purposes in a designated area, or fail to fully extinguish such a fire.
- (9) Drop, throw or otherwise leave unattended in a park lighted matches, burning cigars, cigarettes, tobacco, paper or other combustible material.
- (10) Sell, solicit or carry on any business or commercial enterprise or service in a park, unless authorized by the board of commissioners in writing.
- (11) Use loudspeakers or other amplifying systems in a park except with written permission from the board of commissioners, the public works director, or authorized representative.
- (12) Bring or permit any pet in Williams Nature Center unless exempted by state law.
- (13) Bring or permit any pet within any other county park, unless the animal is restrained on a leash no longer than six feet.
- (14) Fail to pick up and properly dispose of the refuse left by any pet under the person's control.
- (15) Animals to deprive or disrupt the enjoyment of use of any area by other persons.

(Ord. No. 410, § 4)

## **Sec. 12-5. Protection of natural resources and wildlife.**

It shall be unlawful for any person to:

- (1) Injure, destroy or remove any tree, flower, shrub, plant, rock, soil or mineral in any park area.
- (2) Kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed any species of wildlife within a park, except that fishing may be permitted in designated areas.

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(Supp. No. 11)

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- (3) Shoot any weapon in or into a park from beyond park boundaries including, but not limited to: firearms, archery equipment, BB guns and slingshot.
  - (4) Possess any weapon within a park without a permit obtained from the board of commissioners, the public works director, or authorized representative.
  - (5) Release within a park any insect, fish or other wildlife, or introduce within a park any plant, chemical or other agent potentially harmful to the vegetation or wildlife of the park.
  - (6) Remove any animal, living or dead, from a park, and any animal so removed or taken contrary to the provisions of this chapter, or laws of the state, shall be considered contraband and subject to seizure and confiscation.

(Ord. No. 410, § 5)

### **Sec. 12-6. Camping.**

- (a) Campgrounds in county parks are established for the convenience and pleasure of the tourist and vacationer for overnight camping use. They are not intended as a place for permanent or semipermanent residence, a base for the operation of business, or a facility for noncamper use. Campground roads and facilities are for the use of the campers and guests of the campers, and shall not be used for just driving through.
- (b) In keeping with the purposes stated in this section, park attendants are authorized to assign and operate campsites. Their actions shall be governed by the board of commissioners. The board of commissioners from time to time may alter the control of such campsites based on considerations of use, varying patterns of use, the size of the camping area, the physical conditions of a particular campground, and the availability of sanitary facilities.
- (c) It shall be unlawful for any person to:
  - (1) Camp in a park except in designated camping areas provided and designed for that purpose.
  - (2) Camp in a park without a written permit from the board of commissioners, public works director, or authorized representative.
  - (3) Cause, create or make any noise which disturbs the peace, quiet and tranquility of the camping area. Hours between 10:00 p.m. and 8:00 a.m. are for outdoor solitude.
  - (4) Discharge water or any other waste in a park except into designated containers, drains or dumping stations.
  - (5) Dig trenches or make any other excavations in a park, except that the placement of tent stakes or anchors in the ground for the erection of tents is permitted.
  - (6) Occupy campsites contrary to a written permit, or otherwise violate provisions of a permit.
  - (7) Camp if under the age of 18 years unless accompanied by and in the presence of a parent or guardian, unless with prior approval, and such camping is part of an organized group with adequate adult supervision.
  - (8) Exceed either one family or four individuals per tent as specified by permit.
  - (9) Use a boat for sleeping quarters while tied on park water frontage unless registered as a camper.
  - (10) Camping rates will be posted by caregiver.

(Ord. No. 410, § 7)

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### **Sec. 12-7. Swimming.**

It shall be unlawful for any person to:

- (1) Wade or swim within a park except at beaches designated for that purpose, and then only between sunrise and sunset, or such hours as may be designated by the board of commissioners, public works director, or authorized representative. Park visitors shall swim or wade at their risk.
- (2) Take cans, bottles or glass of any kind, except eyeglasses, into a designated beach area.
- (3) Use air mattresses, inner tubes or other inflatable devices, except in designated beach areas.

(Ord. No. 410, § 8)

### **Sec. 12-8. Boating.**

(a) Boating may be enjoyed on waters within or adjacent to county parks subject to certain rules.

(b) It shall be unlawful for any person to:

- (1) Launch or land any boat, yacht, canoe, raft or other watercraft upon any water, lagoon, lake, pond or slough within a park, except at locations and times designated for that purpose.
- (2) Leave unattended any boat or other watercraft, except in areas designated for that purpose.
- (3) Operate any watercraft in a designated swimming area or other prohibited area.
- (4) Operate any watercraft in a park in violation of state statutes or any other law, statute or ordinance dealing with water and water craft safety.

(Ord. No. 410, § 9)

### **Sec. 12-9. Fishing.**

It shall be unlawful for any person to:

- (1) Fish in a park in violation of any provision of state statutes.
- (2) Fish in a park area designated as a "no fishing area."
- (3) Fish in a park area designated as a "swimming area."
- (4) Not clean or dispose of the fish remains at facilities provided for such disposal.

(Ord. No. 410, § 10)

### **Sec. 12-10. Horseback riding.**

It shall be unlawful for any person to ride, lead or permit a horse to be within a park.

(Ord. No. 410, § 11)

### **Sec. 12-11. Bicycling.**

It shall be unlawful for any person to operate a bicycle except on park-designated bikeways and roadways, and except as close to the right-hand side of such ways as conditions will permit.

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(Ord. No. 410, § 12)

**Sec. 12-12. Winter activities.**

It shall be unlawful for any person to skate, sled, coast, snowmobile, snowshoe or ski in a park, except at such times and at such places as may be designated therefor.

(Ord. No. 410, § 13)

**Sec. 12-13. Meetings, speeches, demonstrations and parades.**

It shall be unlawful for any person to conduct public meetings, assemblies, entertainment, parades or demonstrations within a park without first obtaining a written permit from the board of commissioners, the public works director, or authorized representative, and then only in areas designated in the permit.

(Ord. No. 410, § 14)

**Sec. 12-14. Vehicles.**

It shall be unlawful for any person to:

- (1) Operate any vehicle within a park except upon roadways, parking areas or other designated locations therefor.
- (2) Operate a motorized vehicle without a valid driver's license.
- (3) Operate a vehicle in a park at a speed in excess of posted speed limits.
- (4) Park or leave a vehicle standing within a park except in a designated parking area.
- (5) Operate a vehicle which emits excessive or unusual noise, noxious fumes, dense smoke or other polluting matter.
- (6) Operate a vehicle in a reckless or careless manner in a park.
- (7) Wash, polish, change oil or repair any vehicle within a park.
- (8) Operate any nonlicensed motorized vehicles such as dirt bikes or minibikes within the boundaries of any county park.
- (9) Operate any motor vehicle on roads which are posted, chained or gated prohibiting vehicular traffic.

(Ord. No. 410, § 15)

**Sec. 12-15. Motorized recreational vehicles.**

It shall be unlawful for any person to:

- (1) Operate a motorized recreational vehicle within a park except in such areas and at such times as designated by the board of commissioners, public works director, or authorized representative.
- (2) Operate a motorized recreational vehicle without a valid driver's license.

(Ord. No. 410, § 16)

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## Sec. 12-16. Park operation.

- (a) A person may be granted a permit for temporary, exclusive use of a reserved space within a park.
- (b) County parks will be open each day during the season.
  - (1) No person shall remain within Williams Nature Center, Schimek Park or Wildwood Park between the hours of sunset and sunrise.
  - (2) No person shall remain within any other county park within the hours of 10:00 p.m. and 8:00 a.m., except registered campers in designated camping areas.
- (c) Any permit granted pursuant to this chapter may be revoked upon the violation by the permittee of any ordinance, rule or regulation of the board of commissioners or of any other local ordinance, law, or state statute.
- (d) It shall be unlawful for any person to use any facility or area for which a fee or charge has been established by the board of commissioners without payment of such fee or charge.
- (e) The board of commissioners shall not be liable for any loss, damage or injury sustained by a park visitor.
- (f) Any park or portion thereof may be declared closed to the public by the board of commissioners, the public works director, or authorized representative, at any time, and for any interval of time, or to certain uses, as the board of commissioners, the public works director, or authorized representative shall find reasonably necessary.

(Ord. No. 410, § 17)

## Sec. 12-17. The Red Jacket Bicycle Trail trestle.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
  - Bicycle trail* means the Red Jacket Bicycle Trail, which has been incorporated into the county park system as a linear park.
  - Bungee jumping* means descending by use of an elasticized cord used as a fastening or shock-absorbing device to break a fall and prevent serious injury.
  - Rappel* means descending by sliding down a rope passed under one thigh, across the body, and over the opposite shoulder or through a special friction device.
  - Trestle* means the former railroad trestle (bridge) which spans the Le Sueur River and Minnesota Highway 66. Such trestle is part of the Red Jacket Bicycle Trail.
- (b) *Regulations.* In the interest of public health, safety, and the general welfare, the following regulations are hereby imposed upon all persons using, crossing, or otherwise having contact with the trestle. No person shall:
  - (1) Bungee jump from the trestle.
  - (2) Rappel from the trestle.
  - (3) Attach any rope, bungee cord, or other type of cord, wire, rope, or similar object to the trestle.
  - (4) Climb upon or over the side supports of the trestle.

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- (5) Throw any item off of the trestle which may in any way endanger persons or property or which could be construed as littering.
- (c) *Authorization.* The sheriff of the county, or his designee, is directed and/or authorized to enforce this section.
- (Ord. of 7-10-2001, §§ 1—3)

**Sec. 12-18. Enforcement of penalties.**

- (a) A person guilty of violating any provision of this chapter shall be guilty of a misdemeanor. A misdemeanor is punishable by a fine and/or by imprisonment as established in Minn. Stats. § 609.03(3).
- (b) Officers of the county sheriff's department may, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.
- (c) Designated park employees may, in connection with their duties imposed by law, diligently enforce the provisions of this chapter and may eject from parks persons acting in violation of this chapter.
- (d) The board of commissioners, public works director, or authorized representative, shall have the authority to revoke for good cause any permit or reservation issued.
- (e) The board of commissioners shall have the right to issue administrative rules and regulations that may be established by the board of commissioners as it deems necessary.
- (f) Nothing in this chapter shall prevent employees or agents of the park system from performing their assigned duties.
- (g) No persons shall impersonate any employee of the park's system nor interfere with, harass or hinder any employee in the discharge of his duties.

(Ord. No. 410, § 18)

**Secs. 12-19—12-50. Reserved.**

***ARTICLE II. USE OF ICE SAILBOATS AND MOTOR VEHICLES ON COUNTY LAKES***

**Sec. 12-51. Title of article.**

This article shall be known as the Blue Earth County Ordinance Regulating the Use of Ice Sailboats and Motor Vehicles on Ice on Lakes, and will be referred to in this article as "this article."

(Ord. No. 410, § 2, 1-21-1998)

**Sec. 12-52. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Aeration system* means a bubbler, water circulation or similar system used to increase dissolved oxygen or maintain open water.

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*Crystal Lake* means that body of water which bears that name and is given the lake number 07-98 by the department of natural resources lying within the county.

*Ice sailboats* means boat with runners having sails by means of which it is propelled.

*Ida Lake* means that body of water which bears that name and is given the lake number 07-90 by the department of natural resources lying within the county.

*Lake map* means a map of each lake is on file in the office of the county administrator and attached to the original draft of this article.

*Loon Lake* means that body of water which bears that name and is given the lake number 07-96 by the department of natural resources lying within the county.

*Lura Lake* means that body of water which bears that name and is given the lake number 07-79 by the department of natural resources and lies partially within the boundaries of the county.

*Motor vehicle* means any self-propelled vehicle not operated exclusively upon railroad tracks, including snowmobiles and ice boats, and any other vehicle propelled or drawn by a self-propelled vehicle.

*Park* means stationary, whether attended or unattended, occupied or unoccupied.

(Ord. No. 410, § 3, 1-21-1998)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 12-53. Use regulations.**

In the interest of public health, safety and the general welfare, the following regulations are hereby imposed upon all ice sailboats and motor vehicles, including snowmobiles and motorized ice boats, operated, placed or maintained in or upon Lura Lake, Crystal Lake and Ida Lake whenever an aeration system is operating or scheduled for operation under a permit from the department of natural resources:

- (1) No person shall operate or park an ice sailboat or motor vehicle, which shall include snowmobiles and motorized ice boats, between the hours of sunset and sunrise unless they stay within 30 feet of the shoreline whenever there is ice formed on the following named bodies of water: Lura Lake, Loon Lake, Crystal Lake and Ida Lake.
- (2) No person shall operate or park an ice sailboat or motor vehicle, which shall include snowmobiles and motorized ice boats, within the marked areas whenever there is ice formed and the aeration system is operating or scheduled for operation.
- (3) During a period when there is ice on the lakes, no person shall enter the area marked by signs indicating thin ice.
- (4) No person shall move or remove thin ice signs on a lake unless authorized by the county.
- (5) Motor vehicles and snowmobiles utilized for law enforcement, rescue, commercial fishing or resource management shall be exempt from the provision of subsection (1) of this section.

(Ord. No. 410, § 4, 1-21-1998)

### **Sec. 12-54. Postings.**

The county sheriff, or designee, is directed and/or authorized to inform the public of the provisions of this article by posting Lura Lake, Loon Lake, Crystal Lake and Ida Lake in accordance with state department of natural resources rules, orders and permits.

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(Ord. No. 410, § 5, 1-21-1998)

**Sec. 12-55. Violations; penalties and enforcement.**

- (a) *Generally.* Any person who shall violate any of the provisions of this article, or who shall fail to comply with any of the provisions of this article, or who shall make any false statement in any document required to be submitted under the provisions of this article, shall be punished by a fine of a misdemeanor. Each day that a violation continues shall constitute a separate offense.
- (b) *Enforcement.* The enforcement of this article shall be the primary responsibility of the peace officers of the county sheriff's department. Other licensed peace officers, including conservation officers of the state department of natural resources, are also authorized to enforce this article.
- (c) *Penalties.* Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine or by imprisonment as provided by law.

(Ord. No. 410, § 6, 1-21-1998)

## **Chapter 14 SHORELAND ZONING<sup>13</sup>**

### **ARTICLE I. IN GENERAL**

**Sec. 14-1. Statutory authorization.**

This chapter is adopted pursuant to the authorization and policies contained in Minn. Stats. ch. 103G, Minn. Regs. parts 6120.2500—6120.3900, and the planning and zoning enabling legislation contained in Minn. Stats. ch. 394.

(Ord. No. 110, § 1, 2-22-2000)

**Sec. 14-2. Statement of policy and purpose.**

The uncontrolled use of the shoreland of the county affects the public health, safety and general welfare, not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The legislature of the state has delegated responsibility to local governments of the state to regulate the subdivisions, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the county.

(Ord. No. 110, § 1, 2-22-2000)

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<sup>13</sup>Cross reference(s)—Environment, ch. 6; floods, ch. 8; zoning, ch. 24.

State law reference(s)—Planning, development and zoning generally, Minn. Stats. ch. 394.



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### Sec. 14-3. Title and short title.

- (a) *Title.* Pursuant to Minn. Stats. ch. 103G, Minn. Regs. parts 6120.2500—6120.3900, and the planning and zoning enabling legislation contained in Minn. Stats. ch. 394, the board of commissioners ordains this chapter (Ord. No. 110, Blue Earth County Shoreland Ordinance).
- (b) *Short title.* This chapter shall be known and may be cited and referred to as the "Shoreland Ordinance." When referenced in this chapter, it shall be known as this chapter.

(Ord. No. 110, § 2, 2-22-2000)

### Sec. 14-4. Rules and definitions.

- (a) *Word usage.* Unless specifically defined in subsection (e) of this section, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.
- (b) *Permitted uses.* Permitted uses of land or buildings as listed in this chapter, shall be permitted in the districts indicated under the conditions specified. No building or land shall be devoted to any use other than a use permitted in this chapter in which such building, structure or land shall be located, except for the exceptions in subsection (c) of this section.
- (c) *Exceptions.* Permitted and conditional uses lawfully established and continued in accordance with this chapter and chapter 24, pertaining to zoning.
- (d) *Conditional uses.* Conditional uses of land or buildings, as listed in this chapter, may be allowed in the districts indicated, subject to the issuance of conditional use permits, in accordance with the provisions of this chapter and chapter 24, pertaining to zoning.
- (e) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Accessory structure or facility* means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

*Agent* means any person acting on behalf of a landowner in dealing with activities under the jurisdiction of this chapter including, but not limited to, realtors, contractors or attorneys, or renters or occupants of the property.

*Bluff* means a topographic feature such as a hill, cliff, or embankment meeting the following criteria.

- (1) The slope rises at least 15 feet from the toe of the bluff to the top of the bluff.
- (2) The grade of the slope from the toe of the bluff to the top of the bluff averages 30 percent or greater.

*Bluff, toe* means the lower point of a bluff where the slope averages less than 18 percent.

*Bluff, top* means the higher point of a bluff where the slope averages less than 18 percent.

*Bluff impact zone* means land located within 20 feet from the top of a bluff.

*Board of adjustment* means the county board of adjustment as described in Minn. Stats. ch. 394.

*Boat access* means a ramp, road or other means of access on a residential lot which allows the launching and removal of a boat with a trailer and vehicle.

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*Boathouse* means a structure designed and used solely for the storage of boats or boating equipment.

*Buffer strip* means land area used to visibly separate one use from another or to shield or block structures, noise, lights or other nuisances.

*Building setback line* means a line within a lot defining the minimum distance between the property line, bluff line or the ordinary high water level in which buildings or structures may not be placed.

*Business* means any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

*Campground* means any area, whether private or publicly owned, used on a daily, nightly, weekly or longer basis for the accommodation of five or more tents or recreational vehicles free of charge or for compensation.

*Cemetery, unplatted* means any human remains or burials found outside of platted, recorded or identified cemeteries pursuant to Minn. Stats. ch. 307.08.

*Commercial use* means the principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

*Commissioner* means the commissioner of the state department of natural resources.

*Common interest community* means contiguous or noncontiguous real estate within the state that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for real estate taxes levied against; insurance premiums payable with respect to; maintenance of; or construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies (referred to as a "CIC").

- (1) *Condominium*. A CIC in which portions of the real estate are designated as units, the remainder of the real estate is designated for common ownership solely by the owners of the units, and undivided interests in the common elements are vested in the unit owners.
- (2) *Cooperative*. A CIC in which the real estate is owned by an association each of whose members is entitled by virtue of the member's ownership interest in the association to a proprietary lease.
- (3) *Flexible CIC*. A CIC to which additional real estate may be added.
- (4) *Leasehold CIC*. A CIC in which all or a portion of the real estate is subject to a lease the expiration of which will terminate the CIC or reduce its size.
- (5) *Planned community*. A CIC that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

*Comprehensive plan* means the policies, statements, goals and interrelated plans for public and private land and water use, transportation and community facilities, including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for future development of the county or any portion of the county.

*Conditional use* means a land use or development as defined by this chapter that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in this chapter exist, the use or development conforms to the comprehensive land use plan of the county, and the use is compatible with the existing neighborhood.

*Controlled access lot* means any lot which is designated for the exclusive use by nonriparian lots within a subdivision as a means to gain access to a lake, river or stream.

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*Conveyance* means the sale and every other method, direct or indirect, of disposing or parting with real property, or with an interest therein which requires the filing of a certificate of real estate value, or involves the establishment of a trust.

*Crawl space* means the space below the first story of a structure not more than four feet high and not intended for human habitation.

*Deck* means a horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site, and at any point extending more than one foot above ground.

*District* means a section of the county for which the regulations of the height, area, bulk, density, use of buildings and premises are the same as delineated on the land use district map.

*Dock* means a platform extending waterward from the shoreline intended for ingress or egress for moored watercraft or to provide access to deeper water for swimming, fishing or other water-oriented recreational activities.

*Dwelling, multiple*, means a dwelling designed exclusively for occupancy by two or more families living independently of each other. The term includes double bungalows and duplexes.

*Dwelling site* means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

*Dwelling unit* means any structure or portion of a structure, or other shelter designed as shortterm or longterm living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

*Essential services* means the erection, construction, alteration or maintenance of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communications, supply or disposal systems by public utilities, county, or other governmental agencies, excluding buildings.

*Extractive use* means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minn. Stats. §§ 93.44 to 93.51.

*Family* means one or more persons, each related to the other by blood, marriage, adoption or foster care, or a group of no more than three persons not so related, maintaining a common household and using common cooking and kitchen facilities.

*Feedlot* means a lot or building, or combination of contiguous lots and buildings, intended for the confined feeding, breeding, raising or holding of animals, 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 parts, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and domesticated animal zoos, shall be considered to be animal feedlots. Pastures shall not be considered to be animal feedlots.

*Filling* means an act of depositing any clean earthen material.

*Forest land conversion* means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

*Garage* means an accessory structure which is only intended and used for vehicles and storage, which is not a dwelling as defined in this section.

*Gazebo* means a freestanding accessory structure with no kitchen, sleeping, sanitary facilities or pressurized water intended as weather and insect protection for such activities as picnicking and lake viewing.

*Grading* means changing the natural or existing topography of the land.

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*Guest cottage* means a structure used as a dwelling unit that may contain sleeping spaces, kitchen or bathroom facilities in addition to those provided in the primary dwelling unit on a lot. Such cottage shall only be permitted as an accessory use to the primary dwelling, must remain part of the property, and may not be split off and sold separately. New guest cottages are not allowed pursuant to the Shoreland Ordinance amendment adopted on February 22, 2000. Existing guest cottages are nonconforming uses after that date.

*Hardship, undue*, as used in connection with the granting of a variance, means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this chapter.

*Height of building* means the vertical distance between the average ground elevation of the building and the highest point of a gable, pitched, mansard, flat or hipped roof.

*Impervious surface* means the surface area of a lot which has been physically altered in a manner which impacts the ability of the lot to percolate water into the ground, causing runoff. Impervious surfaces include rooftops of buildings, blacktopped or concrete driveways and patios, and areas of landscaping underlain with plastic or other impermeable liners.

*Intensive vegetation clearing* means the complete removal of trees or shrubs in a contiguous patch, strip, row or block.

*Interim use* means a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

*Interim use permit* means a permit issued by the board of commissioners for a temporary use of a property in accordance with procedures specified in this chapter which would enable the board of commissioners to assign site specific conditions to a proposed use.

*Lake, general development*, means these lakes are generally lakes with high concentrations and mixes of existing development. These lakes are often extensively used for recreation and are heavily developed around the shore.

*Lake, natural environment*, means these lakes are generally small, and often shallow, lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables and unsuitable soils. These lakes usually do not have much existing development or recreational uses.

*Lake, recreational development*, means these lakes are generally lakes of varying depths and shapes with a variety of landform, soil and groundwater situations on the lands around them. Development consists mainly of seasonal and yearround residences and recreationally oriented commercial uses.

*Land reclamation and land restoration* mean the process of reestablishing acceptable topography, (i.e., slopes, vegetative cover, soil stability) and conditions appropriate to the subsequent reuse of the land.

*Lot* means a parcel of land designated by plat, metes and bounds, registered land survey, auditor's plat, or other accepted means which is separated from other parcels or portions by such description for the purpose of sale, lease or separation.

*Lot area* means the area located within the lot lines. Lot area must conform to lot area standards as stated in the zoning chapter (chapter 24 of this Code). Contiguous lot area must be free from rights-of-way, waterways, easements, ravines or other physical features which would preclude use of the required lot area.

*Lot width* means the shortest distance between lot lines measured at the building setback line and at right angles to the lot depth.

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*Manufactured home* means a structure, transportable in one or more sections, which in the transportable mode is eight body feet or more in width or 40 body feet or more in length, or when erected on a site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that the term includes any structure which meets the requirements with respect to which the manufacturer voluntarily files a certificate required by the secretary and complies with the standards established under Minn. Stats. ch. 327.

*Manufactured home park* means a contiguous parcel of land which has been planned for the placement of two or more manufactured homes or mobile home lots. A conditional use permit subject to the requirements of chapter 20, pertaining to subdivisions, and chapter 24, pertaining to zoning, is required for the establishment of any manufactured home park.

*Natural drainageway* means all land surface areas which, by nature of their contour or configuration, collect, store and channel surface water or runoff water.

*Nonconforming use* means a use legally in existence on the effective date of Ordinance No. 110, and not conforming to the regulations for the district in which it is situated.

*Nonriparian lot* means a lot that does not abut public waters.

*Ordinary high water level* means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the channel's bank. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

*Outstanding violation* means any ongoing or completed activity which is not permitted by this chapter or pursuant to the authorization and policies contained in Minn. Stats. §§ 103F.201—103F.221, Minn. Regs. parts 6120.2500—6120.3900, and Minn. Stats. ch. 394, commonly known as the county planning and zoning enabling legislation.

*Planned unit development* means a large lot or tract of land developed as a unit rather than as individual development wherein two or more buildings, or compatible land uses, may be located in relationship to each other rather than to lot lines or land use district boundaries.

*Planning advisory commission* and *planning commission* mean the county planning commission as described in Minn. Stats. § 394.30.

*Principal use* means the primary use of land or buildings as distinguished from subordinate or accessory use. A principal use may be either permitted or conditional.

*Public waters* and *protected waters* mean any waters as defined in the Minn. Stats. § 103G.005, subd. 15, and any lakes or wetlands listed in the state department of natural resources protected waters inventory.

*Recreational camping vehicle park* means an area accessible by vehicle, containing sites for travel trailers or recreational vehicles, furnished with central water supply and central sewage treatment facilities connected to each site.

*Recreational vehicle* means vehicles and trailers which are designed to be occupied as temporary living quarters and are licensed for highway use.

*Resort* means any buildings, structures or enclosures kept, used, maintained or advertised to the public to be an enclosure where sleeping accommodations are furnished to the public, primarily to those seeking recreation, for periods of one day or one week, or longer, and having for rent three or more cottages, rooms or enclosures.

*Riparian* means land contiguous to the bank of a stream, a lake shore or the edge of a wetland.

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*River segment, agricultural*, means river segments that are located in areas with good road systems and intensively cultivated agricultural lands. Cultivated crops are the predominant use, with some pasture and occasional feedlots, small municipalities and small forested areas. Residential development is not common, but some year-round residential use is occurring within commuting distance of major towns. Some intensive recreational use occurs on these river segments in particular areas, but overall recreational use of these waters and adjacent lands is low. Although potential exists for additional development and recreation, water quality constraints and competing land uses, particularly agricultural, inhibit expansions.

*River segment, transitional*, means river segments that are generally located in the middle reaches of river systems. Common land uses include forests with riparian development strips and mixtures of cultivated, pasture and forested land beyond. Some seasonal and year-round residential development exists within commuting distances of major towns. The types and intensities of recreational uses within this class vary widely.

*River segment, tributary*, means river segments that are located in the state department of natural resources protected waters inventory that were not assigned one of the other river segment classifications. These segments have a wide variety of existing land and recreational use characteristics.

*Road* means a public right-of-way or private street affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or however otherwise designated.

*Sanitary facilities* means toilet, bathroom, shower and floor drains.

*Screening* means fencing or vegetative growth that visually separates one object from another.

*Semipublic use* means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

*Sensitive resource management* means 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 existence of flora or fauna in need of special protection.

*Setback* means the minimum horizontal distance between a structure, sewage treatment system, or other facility and a lake's ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.

*Sewage treatment system* means a septic tank and soil absorption system or other individual or cluster type sewage treatment system, as described and regulated in subsection 14-117(b).

*Sewered lake* means a lake whose shoreland area residents are served by a municipal wastewater treatment system.

*Sewer system* means pipelines or conduits, pumping stations and force main, and all other construction, devices, appliances or appurtenances used for conducting sewage, industrial waste or other wastes to a point of ultimate disposal.

*Shore impact zone* means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

*Shoreland* means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances if approved by the commissioner.

*Short-term rental unit* means a commercial use of a dwelling, where sleeping quarters are furnished in exchange for compensation, for any period of time less than 30 days and is not a bed and breakfast.

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*Shrub* means a woody plant up to four inches in diameter or one foot to eight feet in height.

*Significant cultural or historic site* means any archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the state register of historic sites, or is determined to be an unplatted cemetery that falls under the provisions of Minn. Stats. § 307.08. An historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state archaeologist or the director of the state historical society. All unplatted cemeteries are automatically considered to be significant historic sites.

*Slope* means the degree of deviation of a surface from the horizontal, usually expressed in percent.

*Small solar energy system* means a solar array that is a minimum of 120 square feet in size with a power capacity of less than 100 kilowatts.

*Steep slope* means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

*Storage building* means a one-story accessory structure intended only for use as storage and not as a dwelling as defined in this section.

*Story* means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling above it. If the finished floor level directly above a basement or cellar or unused under floor space is more than six feet above grade for more than 50 percent of its perimeter, or is more than 12 feet above grade at any point, such basement, cellar or unused under floor space is a story.

*Structure* means anything constructed or erected, the use of which requires permanent location on the ground, or having permanent location on the ground, including advertising devices or other construction or erection with special function or form, except fences and walks.

*Subdivision* means land subject to requirements of chapter 20 pertaining to subdivisions, which is divided for the purpose of sale, rent or lease, including planned unit developments.

*Toe of the bluff* means the lowest point of a 50-foot segment, measured on the ground, with the average slope exceeding 18 percent.

*Top of the bluff* means the highest point of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

*Tree* means a woody plant four inches or more in diameter or eight feet or more in height.

*Use* means the purpose or activity for which the land or buildings are designed, arranged or intended, or for which buildings are occupied, utilized or maintained.

*Usable floor space* means all enclosed areas within a structure intended as living space.

*Variance* means the waiving by the board of adjustment of the literal provisions of this chapter in cases where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property involved. Variances shall be limited to height, density and yard requirements.

*Vegetation* means the sum total of trees and shrubs in an area.

*Water-oriented accessory structure or facility* means a small, aboveground building or other improvement, except stairways, fences, docks and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of

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such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

*Water-oriented commercial use* means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts and restaurants with transient docking facilities are examples of such use.

*Wetland* means transitional lands between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water, and/or a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), which is hereby incorporated in this chapter by reference. For the purposes of this definition, wetlands must:

- (1) Have a predominance of hydric soils;
- (2) Be inundated or be saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) Under normal circumstances support a prevalence of such vegetation.

(Ord. No. 110, § 4, 2-22-2000; Ord. of 2-25-2003, § 1; Ord. of 1-19-2021(3), Att. A; Ord. of 3-22-2022, Att. 1)

Cross reference(s)—Definitions generally, § 1-2.

#### **Sec. 14-5. Jurisdiction of chapter provisions.**

The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in article III of this chapter. Pursuant to Minn. Regs. parts 6120.2500—6120.3900, no lake, pond or flowage less than 25 acres in size in the unincorporated area of the county is regulated by this chapter. A body of water created by a private user where there was no previous shoreland is exempt from this chapter.

(Ord. No. 110, § 3, 2-22-2000; Ord. of 2-16-2016)

#### **Sec. 14-6. Relation to land use plan and water plan.**

It is the policy of the board of commissioners that the enactment, amendment and administration of this chapter is accomplished with due consideration of the purposes, goals and objectives of the county comprehensive land use plan and comprehensive water plan as adopted, approved and amended from time to time by the board of commissioners. The board of commissioners recognizes that the land use plan is a guide for the future development of the county and the basis for the enactment of this chapter.

(Ord. No. 110, § 3, 2-22-2000)

#### **Sec. 14-7. Compliance with chapter provisions.**

- (a) The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation, and the subdivision of land shall be in full compliance with the terms of this chapter.
- (b) No property shall be developed which is unsuitable by reason of inadequate soils, flooding, inadequate drainage, inadequate water supply, inability to provide for adequate sewage treatment, or if in conflict with any intergovernmental agreement provided for by statute between cities, townships and/or the county, the purpose of which is to regulate the use of land adjacent to the cities. Any proposed subdivision or planned



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unit development which includes more than four dwelling units per quarter-quarter section shall be connected to municipal sewage treatment facilities.

- (c) All uses within designated shoreland areas shall comply with chapter 6 of this Code, environment; chapter 8, pertaining to floods; chapter 20, pertaining to subdivisions; chapter 24, pertaining to zoning; and other applicable regulations.

(Ord. No. 110, § 3, 2-22-2000)

### **Sec. 14-8. Enforcement of chapter provisions.**

- (a) *Generally.* The board of commissioners and the zoning administrator are responsible for the administration and enforcement of this chapter. Any violation of the provisions of this chapter or failure to comply with any of its requirements by a landowner or agent, including violations of conditions and safeguards established in connection with the granting of, or contained within, variances or conditional uses shall constitute a misdemeanor. Violations of this chapter can occur regardless of whether or not a permit is required herein for a regulated activity pursuant to section 14-41. Each day that a violation of this chapter continues, or each day that a failure to comply with any requirements of this chapter continues, shall constitute a separate offense. The county sheriff shall have the power to enforce this chapter by issuing citations for criminal violations of this chapter upon the owner of a property and/or their agent. The county may sue for injunctive relief on any violation, including restoration of the premises to its condition existing prior to the violation.
- (b) *Prosecution.* The zoning administrator may enforce the provisions of this chapter whether through criminal prosecution, civil remedy, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution shall not bar a civil remedy.
- (c) *Cease and desist orders.* The zoning administrator may issue cease and desist orders to halt the progress of any ongoing violation. When work has been stopped for any reason, it shall not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted. Any costs incurred by the county in the enforcement of the cease and desist order or the remedies therein shall be assessed to the landowner.
- (d) *After-the-fact applications.* Any application for a permit which is made after the work is commenced and which requires a permit shall be charged an additional administrative fee established by board of commissioners resolution and adjusted from time to time. In addition, the planning commission, board of adjustment, board of commissioners or the zoning administrator may require correction and/or restoration of the property concerned to its original state should the application for a permit be denied or if the action permitted does not include all or part of the work commenced prior to the approval of such permit.
- (e) *Performance bonds.* Upon approval of a conditional use permit, variance or other permit application, the planning commission, board of adjustment, board of commissioners or zoning administrator may require a surety bond, cash escrow, certificate of deposit, securities, letter of credit or cash deposit prior to the issuance of a land use permit or commencement of work on the proposed improvements or development. Such security shall be irrevocable and shall guarantee conformance and compliance with the conditions of the conditional use or variances and this chapter, and other applicable county ordinances.

(Ord. No. 110, § 3, 2-22-2000)

### **Sec. 14-9. Interpretation of chapter provisions.**

In the interpretation and application, the provisions of this chapter shall be interpreted to protect the public health, safety and welfare of the citizens of the county by providing for the wise subdivision, use and development

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of shorelands of public waters. This chapter is not intended to repeal any other powers granted to the county by state statutes.

(Ord. No. 110, § 3, 2-22-2000)

**Sec. 14-10. Abrogation and greater restrictions.**

It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. When this chapter is inconsistent with any other ordinance, the ordinance which imposes the greater restriction shall prevail.

(Ord. No. 110, § 3, 2-22-2000)

**Sec. 14-11. Referral to other laws.**

If any section of this chapter references another chapter, statute, rule, or other provision of law, the reference shall be for that other provision of law as currently enacted and as it may be amended or recodified in the future.

(Ord. No. 110, § 3, 2-22-2000)

**Secs. 14-12—14-40. Reserved.**

**ARTICLE II. ADMINISTRATION<sup>14</sup>**

**Sec. 14-41. Permits.**

- (a) *Required.* A permit is required prior to any construction of structures and their appurtenances and additions, including such related activities as construction of decks and signs, the installation and/or alteration of sewage treatment systems, vegetative alteration, and grading and filling activities not exempted by section 14-113. Application for a permit shall be made by the legally recorded owner or his agent to the zoning administrator on the forms provided. The application shall include the necessary information, including the applicant's interest in the subject property, so that the zoning administrator can determine the site's suitability for the intended use and the applicant's legal authority to improve the property, and to verify that a compliant sewage treatment system will be provided. Except for conditional use permits, all permits shall be valid for a period of one year from the date of issuance.
- (b) *Nonconforming sewage treatment systems.* Any permit authorizing any use within the shoreland area shall stipulate that an identified nonconforming sewage treatment system, as defined by section 14-117, must be reconstructed or replaced in accordance with the provisions of this chapter.
- (c) *Responsibility to obtain other permits.* The granting of any permit, variance or conditional use permit pursuant to requirements of this chapter or other applicable county ordinances, shall not relieve applicants of their responsibility to obtain any required state or federal permits.
- (d) *Outstanding violations.* No permits will be issued for properties which have unresolved outstanding violations.

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<sup>14</sup>Cross reference(s)—Administration, ch. 2.

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- (e) *Performance bond.* The county may require a surety bond, cash escrow, certificate of deposit, securities, letter of credit or cash deposit prior to the issuance of land use permits, or initiation of work on the proposed improvements or development. Such security shall be irrevocable and shall guarantee compliance with the conditions of the permit, conditional use or variance, and the ordinances of the county.

(Ord. No. 110, § 5, 2-22-2000)

#### **Sec. 14-42. Certificate of zoning compliance.**

The zoning administrator shall issue a certificate of zoning compliance, prior to the commencement of the activity, for each activity requiring a permit as specified in section 14-41. This certificate will specify that the use of land conforms to the requirements of this chapter. Any use, arrangement or construction not in compliance with that authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in section 14-8.

(Ord. No. 110, § 5, 2-22-2000)

#### **Sec. 14-43. Conditional uses and interim uses.**

- (a) *Generally.* Conditional uses and interim uses allowable within shoreland areas shall be subject to review, approval procedures, and criteria and conditions for review of conditional and interim uses established community wide. No application will be accepted for property on which there are unresolved outstanding violations of this chapter. The additional evaluation criteria and conditions of this section apply within shoreland areas.
- (b) *Prohibited approvals.* A conditional use permit or interim use permit may not circumvent the general purposes and intent of this chapter. In no case shall a conditional use permit or interim use permit be granted which the board of commissioners determines will:
- (1) Allow any use that is prohibited in the land use district in which the subject property is located;
  - (2) Result in the construction or placement of a structure or obstruction which will restrict the passage of storm floodwater in such a manner as to increase the height of flooding, except obstructions approved by a watershed district, if existing, in conjunction with sound floodplain management;
  - (3) Result in incompatible land uses which would be detrimental to the protection of groundwater and surface water quality;
  - (4) Conflict with the county comprehensive land use plan, comprehensive water plan or other planning objectives of the county, or which will increase or cause danger to life or property;
  - (5) Be inconsistent with the preservation of natural land forms, vegetation and wetlands of the county; or
  - (6) Result in approval of a proposal which does not vary significantly from an application denied within the preceding 12 months.
- (c) *Evaluation criteria.* A thorough evaluation of the water body and the topographic, vegetation and soils conditions on the site must be made to ensure:
- (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
  - (2) The visibility of structures and other facilities as viewed from public waters is limited.
  - (3) The site is adequate for water supply and on-site sewage treatment.

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- (4) The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- (d) *Conditions attached to conditional use permits and interim use permits.* The board of commissioners, upon consideration of the criteria listed in subsection (c) of this section and the purposes of this chapter, shall attach such conditions to the issuance of conditional use permits or interim use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:
- (1) Limitations on the removal of natural vegetation.
  - (2) Requirements that additional vegetation be planted to screen the structure from the lake.
  - (3) Limitations on the future use of the building and/or size of the total building footprint.
  - (4) Requirements that accessory structures be moved or removed.
  - (5) Requirements that structures be painted in earth-tone colors to blend into the natural environment.
  - (6) Increased setbacks from the ordinary high water level.
  - (7) Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Ord. No. 110, § 5, 2-22-2000; Ord. of 1-19-2021(3), Att. A)

#### **Sec. 14-44. Variances.**

- (a) *Criteria.* Variances may only be granted in accordance with Minn. Stats. ch. 394, as applicable. Any person may make an application to the board of adjustment for a variance from the literal provisions of this chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and where the hardship is of a noneconomic nature. No application for a variance will be accepted from landowners or on property on which there are unresolved outstanding violations or violations attributable to the conduct of the landowner or the landowner's agent. A variance may not circumvent the general purposes and intent of this chapter and it must be in harmony with the county land use plan. In no case shall a variance be granted which the board of commissioners determines will:
- (1) Allow any use that is prohibited in the land use district in which the subject property is located;
  - (2) Result in the construction or placement of a structure or obstruction which will restrict the passage of storm floodwater in such a manner as to increase the height of flooding, except obstructions approved by a watershed district, if existing, in conjunction with sound floodplain management;
  - (3) Result in incompatible land uses which would be detrimental to the protection of groundwater and surface water quality;
  - (4) Not be in keeping with land use, water plans or planning objectives of the county, or which will increase or cause danger to life or property;
  - (5) Be inconsistent with the preservation of natural land forms, vegetation and wetlands of the county;
  - (6) Result from circumstances created by the landowner or his agent; or
  - (7) Result in approval of a variance which is not significantly different from an application which was denied by the board of commissioners within the preceding 12 months.
- (b) *Conditions for approval.* For existing developments, the application for a variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The

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variance, if issued, must require reconstruction of a nonconforming sewage treatment system. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. Conditions may include, but shall not be limited to:

- (1) Limitations on the removal of natural vegetation.
  - (2) Requirements that additional vegetation be planted to screen the structure from the lake.
  - (3) Limitations on the future use of the building and/or size of the total building footprint.
  - (4) Requirements that accessory structures be moved or removed.
  - (5) Requirements that structures be painted in earth-tone colors to blend into the natural environment.
  - (6) Special provisions relating to the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- (c) *Approval notice requirements.* When a variance is approved after the state department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in subsection 14-46(a) shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(Ord. No. 110, § 5, 2-22-2000)

#### **Sec. 14-45. Appeals; decisions.**

The board of adjustment shall hear and decide requests for variances and appeals in accordance with the rules that it has adopted for the conduct of business. The decision of the county board of adjustment shall not be final. Any person having an interest affected by this chapter or any decision made relating to it shall have the right to appeal to the district court on question of fact within 30 days from the date of the rendering of the board of commissioner's decision. No work may proceed, or other permits be issued until this appeal period has expired.

(Ord. No. 110, § 5, 2-22-2000)

#### **Sec. 14-46. Notifications to the state department of natural resources.**

- (a) Copies of notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten days before the hearings. Notices of hearings to consider proposed subdivisions and/or plats must include copies of the subdivision and/or plat.
- (b) A copy of approved amendments, subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative within ten days of final action.

(Ord. No. 110, § 5, 2-22-2000)

#### **Secs. 14-47—14-80. Reserved.**

### **ARTICLE III. SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS**

**Sec. 14-81. Shoreland classification system.**

- (a) *Generally.* The public waters of the county have been classified below consistent with the criteria found in the Minn. Regs. part 6120.3300, and the county protected waters inventory map.
- (b) *Shoreland areas.* The shoreland area for the water bodies listed in subsections (c) and (d) of this section shall be as defined in subsection 14-4(3) and as shown on the official land use map.
- (c) *Protected waters.* The shoreland classification system for protected waters is as follows:

| A. |                                  |                   |              |
|----|----------------------------------|-------------------|--------------|
|    | <i>Natural Environment Lakes</i> | <i>Township</i>   | <i>PWID#</i> |
|    | Albert                           | Jamestown         | 7-56         |
|    | Alice                            | LeRay             | 7-39         |
|    | Armstrong                        | Butternut Valley  | 7-125        |
|    | Born                             | LeRay             | 7-3          |
|    | Cottonwood                       | Medo              | 7-24         |
|    | Eagle South                      | Mankato/LeRay     | 7-60         |
|    | Gilfillin                        | Jamestown/LeRay   | 7-45         |
|    | Hobza Marsh                      | Medo              | 7-19         |
|    | Ida                              | Shelby            | 7-90         |
|    | Indian                           | LeRay             | 7-43         |
|    | Knights                          | Mapleton/Danville | 7-57         |
|    | Lieberg                          | Butternut Valley  | 7-124        |
|    | Long                             | Jamestown         | 7-48         |
|    | Lura                             | Sterling/Mapleton | 7-79         |
|    | Mills                            | Garden City       | 7-97         |
|    | Mud                              | Jamestown         | 7-49         |
|    | Mud                              | LeRay             | 7-34         |
|    | Unnamed                          | Danville          | 7-13         |
|    | Madison                          | LeRay             | 7-2          |
|    | Unnamed                          | Lyra              | 7-82         |
|    | Unnamed                          | Mankato           | 7-71         |
|    | Unnamed                          | Mankato           | 7-73         |
|    | Unnamed                          | Medo              | 7-23         |
|    | Perch                            | Beauford/Medo     | 7-58         |
|    | Pick Marsh                       | Danville          | 7-9          |
|    | Rice                             | Decoria/McPherson | 7-59         |
|    | Raub's (Lost) Marsh              | Danville/Medo     | 7-15         |
|    | Severson                         | Medo              | 7-20         |
|    | Rush                             | Judson/South Bend | 7-89         |
|    | Stockman Marsh                   | Danville          | 7-5          |
|    | Strom                            | Butternut Valley  | 7-126        |
|    | Wita                             | Lime              | 7-77         |

| B. |                                       |                 |              |
|----|---------------------------------------|-----------------|--------------|
|    | <i>Recreational Development Lakes</i> | <i>Township</i> | <i>PWID#</i> |
|    | Ballantyne                            | Jamestown       | 7-54         |

|  |             |                     |        |
|--|-------------|---------------------|--------|
|  | Eagle North | Mankato/Lime        | 7-60   |
|  | George      | Jamestown           | 7-47   |
|  | Loon        | Garden City         | 7-96   |
|  | Madison     | Jamestown/LeRay     | 7-44   |
|  | Minnesota   | Danville            | 22-33  |
|  | Rapidan     | Rapidan/Garden City | 7-87   |
|  | Washington  | Jamestown           | 40-117 |

|    |                                  |                    |              |
|----|----------------------------------|--------------------|--------------|
| C. |                                  |                    |              |
|    | <i>General Development Lakes</i> | <i>Township</i>    | <i>PWID#</i> |
|    | Crystal                          | Garden City/Judson | 7-98         |
|    | Duck                             | Jamestown          | 7-53         |
|    | Lily                             | Judson             | 7-101        |

(d) *Rivers and streams.* The shoreland classification system for rivers and streams is as follows:

|    |                        |  |
|----|------------------------|--|
| A. | Agricultural Rivers*   | Description  |
|    | Minnesota River (MN)   | Sec. 03, T108N, R28W to Sec. 01, T108N, R27W.  |
|    | Blue Earth River (BE)  | Sec. 34, T105N, R28W to Sec. 14, T108N, R27W.  |
|    | Le Sueur River (LS)    | Sec. 25, T107N, R25W to Sec. 26, T108N, R27W.  |
|    | Watonwan River (W)     | Sec. 31, T107N, R29W to Sec. 18, T107N, R27W.  |
|    | Maple River (M)        | Sec. 34, T105N, R26W to Sec. 12, T107N, R27W.  |
|    | Big Cobb River (BCR)   | Sec. 36, T105N, R25W to Sec. 18, T107N, R26W.  |
| B. | Transition Rivers*     | Description  |
|    | Minnesota River        | Sec. 07, T109N, R29W to Sec. 34, T109N, R28W and Sec. 36, T109N, R27W to Sec. 24, T109N, R27W. |
| C. | Tributary Streams*     | Description  |
|    | Little Cottonwood (LC) | Sec. 19, T109N, R29W to Sec. 16, T109N, R29W.  |
|    | Morgan Creek           | Sec. 31, T109N, R29W to Sec. 16, T109N, R29W.  |
|    | Unnamed to MN          | Sec. 06, T108N, R28W to Sec. 25, T109N, R29W.  |
|    | Unnamed to MN          | Sec. 05, T108N, R28W to Sec. 32, T109N, R28W.  |
|    | Unnamed to MN          | Sec. 02, T108N, R28W to Sec. 07, T108N, R27W.  |
|    | Minneopa Creek         | Sec. 32, T108N, R28W to Sec. 16, T108N, R27W.  |
|    | Willow Creek (WC)      | Sec. 24, T105N, R29W to Sec. 06, T105N, R28W.  |
|    | Unnamed to WC          | Sec. 35, T105N, R29W to Sec. 13, T105N, R29W.  |
|    | Unnamed to Unnamed     | Sec. 27, T105N, R29W to Sec. 23, T105N, R29W.  |
|    | Unnamed to WC          | Sec. 20, T105N, R29W to Sec. 13, T105N, R29W.  |
|    | Marble Creek           | Sec. 19, T105N, R29W to Sec. 01, T105N, R29W.  |
|    | Unnamed to WC          | Sec. 25, T106N, R29W to Sec. 06, T105N, R28W.  |
|    | Unnamed to W           | Sec. 35, T107N, R28W to Sec. 26, T107N, R28W.  |
|    | Perch Creek            | Sec. 18, T105N, R29W to Sec. 11, T106N, R29W.  |
|    | Spring Branch Creek    | Sec. 19, T106N, R29W to Sec. 30, T106N, R29W.  |
|    | Unnamed to LS          | Sec. 13, T107N, R25W to Sec. 13, T107N, R25W.  |
|    | Unnamed to LS          | Sec. 10, T107N, R25W to Sec. 09, T107N, R25W.  |
|    | Unnamed to LS          | Sec. 22, T108N, R25W to Sec. 29, T108N, R25W.  |
|    | Unnamed to LS          | Sec. 14, T108N, R26W to Sec. 27, T108N, R26W.  |
|    | Unnamed to LS          | Sec. 10, T107N, R26W to Sec. 09, T107N, R26W.  |
|    | Unnamed to BCR         | Sec. 24, T105N, R25W to Sec. 23, T105N, R25W.  |
|    | Unnamed to Unnamed     | Sec. 23, T105N, R25W to Sec. 23, T105N, R25W.  |

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|                          |   |
|--------------------------|---|
| Unnamed to BCR           | Sec. 16, T106N, R26W to Sec. 08, T106N, R26W. |
| Little Cobb to BCR       | Sec. 36, T106N, R25W to Sec. 14, T106N, R26W. |
| Bull Run Creek           | Sec. 13, T106N, R25W to Sec. 13, T106N, R25W. |
| Unnamed to LC            | Sec. 16, T106N, R25W to Sec. 05, T106N, R25W. |
| Unnamed to M             | Sec. 33, T105N, R26W to Sec. 33, T105N, R26W. |
| Unnamed to M             | Sec. 29, T105N, R25W to Sec. 28, T105N, R26W. |
| Unnamed to Unnamed       | Sec. 36, T105N, R26W to Sec. 26, T105N, R26W. |
| Unnamed to M             | Sec. 31, T106N, R26W to Sec. 12, T105N, R27W. |
| Rice Creek               | Sec. 33, T105N, R27W to Sec. 10, T105N, R27W. |
| Providence Creek         | Sec. 32, T105N, R27W to Sec. 09, T105N, R27W. |
| Unnamed to M             | Sec. 23, T106N, R27W to Sec. 10, T106N, R27W. |
| Unnamed to MN            | Sec. 34, T109N, R26W to Sec. 25, T109N, R27W. |
| Unnamed to MN            | Sec. 09, T108N, R26W to Sec. 06, T108N, R27W. |
| Unnamed to Washington L. | Sec. 33, T109N, R25W to Sec. 21, T109N, R25W. |
| Unnamed to MN            | Sec. 22, T109N, R26W to Sec. 19, T109N, R26W. |
| Unnamed to Strom L.      | Sec. 18, T108N, R29W to Sec. 19, T108N, R29W. |
| Unnamed to Strom L.      | Sec. 19, T108N, R29W to Sec. 19, T108N, R29W. |

\* These rivers are protected watercourses and are shown on the protected waters inventory map for the county, a copy of which is hereby adopted by reference. Abbreviations used for receiving water: MN, Minnesota River; BE, Blue Earth River; W, Watonwan River; LS, Le Sueur River; BCR, Big Cobb River; M, Maple River; WC, Willow Creek; LC, Little Cobb River; and L, Lake.

(Ord. No. 110, § 6, 2-22-2000)

### **Sec. 14-82. Land use districts.**

- (a) *Criteria.* The land use districts described in subsection (d) of this section and the delineation of a land use district's boundaries on the official land use map, must be consistent with the goals, policies and objectives of the county comprehensive land use plan, comprehensive water plan, and the criteria, considerations and objectives of this section.
- (b) *General considerations and criteria for all uses.* General considerations and criteria for all land uses are as follows:
- (1) Preservation of natural areas.
  - (2) Present ownership and development of shoreland areas.
  - (3) Shoreland soil types and their engineering capabilities.
  - (4) Topographic characteristics.
  - (5) Vegetative cover.
  - (6) Aquatic physical characteristics, values and constraints.
  - (7) Recreational use of the surface water.
  - (8) Road and service center accessibility.
  - (9) Socioeconomic development needs and plans as they involve water and related land resources.
  - (10) The land requirements of industry which, by its nature, requires location in shoreland areas.
  - (11) The necessity to preserve and restore certain areas having significant historical or ecological value.



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- (c) *Reclassification of land use districts by amendments to the official land use map.* The general considerations and criteria for all land uses listed in subsection (b) of this section, shall be adhered to by applicants and the planning commission when an application is made for reclassification within a land use district, or for an amendment to the official county land use map.
- (d) *Descriptions.* The land use districts provided in this subsection, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the official land use map for shorelands of this community. These land use districts are in conformance with the criteria specified in Minn. Regs. part 6120.3200, subp. 3:
- (1) *Natural environment lakes.* The permitted, conditional, and interim uses listed in this subsection (1) for natural environment lakes are generally consistent with the permitted, conditional and interim uses of the agricultural and conservation district of chapter 24, pertaining to zoning.
- a. Special protection district.
    - 1. Permitted uses:
      - i. Sensitive resource management.
      - ii. Agricultural: cropland and pasture.
      - iii. Single-family dwellings.
      - iv. Small solar energy systems.
    - 2. Conditional uses:
      - i. Parks and historic sites.
    - 3. Interim uses:
      - i. Extractive use as regulated in section 24-329.
      - ii. Level I home occupations as regulated in section 24-326.
      - iii. Short-term rental units as regulated by section 24-337.
  - b. Residential district
    - 1. Permitted uses:
      - i. Single-family dwellings.
      - ii. Small solar energy systems.
    - 2. Conditional uses:
      - i. Parks and historic sites.
    - 3. Interim uses:
      - i. Level I home occupations as regulated in section 24-326.
      - ii. Duplexes in districts allowing multi-family dwellings.
      - iii. Semipublic uses.
      - iv. Short-term rental units as regulated by section 24-337.
  - c. Water-oriented commercial district.
    - 1. Permitted uses:
      - i. Small solar energy systems.

2. Conditional uses:
  - i. Surface water-oriented uses.
  - ii. Parks and historic sites uses.
3. Interim uses:
  - i. Public, semipublic uses.
  - ii. Short-term rental units as regulated by section 24-337.
- d. Lot area and width standards. The lot area (in square feet) and lot width standards (in linear feet) for single-family dwelling lots created after February 22, 2000, are as follows:

|           | Riparian Lots |       | Nonriparian Lots |       |
|-----------|---------------|-------|------------------|-------|
|           | Area          | Width | Area             | Width |
| Unsewered | 80,000        | 200   | 80,000           | 200   |
| Sewered   | 40,000        | 125   | 20,000           | 125   |

- e. Placement of structures on lots.
  1. When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered with a variance to conform to the adjoining setbacks from the ordinary high water level, provided that the proposed building site is not located in a shore impact zone or in a bluff impact zone.
  2. Structures and on-site sewage system must set back 150 feet from the ordinary high water level, except as follows: One water-oriented accessory structure designed in accordance with subsection 14-111(b), may be set back a minimum distance of ten feet from the ordinary high water level.
  3. Additional structure setbacks:

|     | Setback From       | Distance                     |
|-----|--------------------|------------------------------|
| (1) | Top of bluff       | 30 feet                      |
| (2) | Unplatted cemetery | 50 feet                      |
| (3) | Roadways           | As established in chapter 24 |

4. Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
5. Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- f. Special residential lot provisions. Duplexes and subdivisions with duplexes proposed are interim uses on Natural Environment Lakes and must also meet the following standards:
  1. Each duplex or main building must be set back at least 200 feet from the ordinary high water level.

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2. Each building must be connected to municipal sewer or have a common sewage treatment and water systems in one location and serve both dwelling units on each lot.
  3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
  4. No more than 25 percent of a lake's shoreline can be in duplex or multifamily developments.
- (2) *Recreational development lakes.* The permitted, conditional, and interim uses listed in this subsection for recreational development lake districts are generally consistent with the permitted, conditional, and interim uses of the residential and conservation zoning districts of chapter 24.
- a. Special protection district.
    1. Permitted uses:
      - i. Sensitive resource management.
      - ii. Agricultural: cropland and pasture.
      - iii. Single-family dwellings.
      - iv. Small solar energy systems.
    2. Conditional uses:
      - i. Parks and historic sites.
    3. Interim uses:
      - i. Extractive use as regulated in section 24-329.
      - ii. Level I home occupations as regulated in section 24-326.
      - iii. Short-term rental units as regulated by section 24-337.
  - b. Residential district.
    1. Permitted uses:
      - i. Single-family dwelling.
      - ii. Small solar energy systems.
    2. Conditional uses:
      - i. Parks and historic sites.
    3. Interim uses:
      - i. Level I home occupations as regulated in section 24-326.
      - ii. Duplexes in districts allowing multi-family dwellings.
      - iii. Semipublic uses.
      - iv. Short-term rental units as regulated by section 24-337.
  - c. Water-oriented commercial district.
    1. Permitted uses:
      - i. Surface water-oriented commercial uses.
      - ii. Small solar energy systems.

2. Conditional uses:
  - i. Parks and historic sites uses.
3. Interim uses:
  - i. Semipublic uses.
  - ii. Short-term rental units as regulated by section 24-337.
- d. Lot area and width standards. The lot area (in square feet) and lot width standards (in linear feet) for single residential lots created after February 22, 2000, for recreational development lakes are as follows:

| Unsewered | Riparian Lots |       | Nonriparian Lots |       |
|-----------|---------------|-------|------------------|-------|
|           | Area          | Width | Area             | Width |
| Single    | 43,560        | 150   | 43,560           | 150   |
| Duplex    | 80,000        | 225   | 80,000           | 265   |

| Sewered | Riparian Lots |       | Nonriparian Lots |       |
|---------|---------------|-------|------------------|-------|
|         | Area          | Width | Area             | Width |
| Single  | 20,000        | 75    | 15,000           | 75    |
| Duplex  | 35,000        | 135   | 26,000           | 135   |

- e. Placement of structures on lots.
  1. When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered with a variance to conform to the adjoining setbacks from the ordinary high water level, provided that the proposed building site is not located in a shore impact zone or in a bluff impact zone.
  2. Structures and on-site sewage system on recreational development lakes must setback from the ordinary high water level as follows:

|                                  |          |
|----------------------------------|----------|
| Sewered structures               | 75 feet  |
| Unsewered structures             | 100 feet |
| On-site sewage treatment systems | 75 feet  |

One water-oriented accessory structure designed in accordance with subsection 14-111(b) may be set back a minimum distance of ten feet from the ordinary high water level.

3. Additional structure setbacks.

| Setback From       | Distance                     |
|--------------------|------------------------------|
| Top of bluff       | 30 feet                      |
| Unplatted cemetery | 50 feet                      |
| Roadways           | As established in chapter 24 |

4. Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

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5. Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- (3) *General development lakes.* The permitted, conditional, and interim uses listed below for general development lake districts are generally consistent with the permitted, conditional, and interim uses of the residential and conservation zoning districts of chapter 24.
- a. Special protection district.
    1. Permitted uses:
      - i. Sensitive resource management.
      - ii. Agricultural cropland and pasture.
      - iii. Single-family dwellings.
      - iv. Small solar energy systems.
    2. Conditional uses:
      - i. Parks and historic sites.
    3. Interim uses:
      - i. Level I home occupations as regulated in section 24-326.
      - ii. Extractive use as regulated in section 24-329.
      - iii. Short-term rental units as regulated by section 24-337.
  - b. Residential district.
    1. Permitted uses:
      - i. Single-family dwellings.
      - ii. Small solar energy systems.
    2. Conditional uses:
      - i. Parks and historic sites.
    3. Interim uses:
      - i. Level I home occupations as regulated in section 24-326.
      - ii. Duplexes in districts allowing multi-family dwellings.
      - iii. Semipublic uses.
      - iv. Short-term rental units as regulated by section 24-337.
  - c. Water-oriented commercial district.
    1. Permitted uses:
      - i. Surface water-oriented commercial uses.
      - ii. Small solar energy systems.
    2. Conditional uses:

- i. Parks and historic sites uses.
3. Interim uses:
- i. Public, semipublic uses.
  - ii. Short-term rental units as regulated by section 24-337.
- d. Lot area and width standards. The lot area (in square feet) and lot width standards (in linear feet) for single and duplex residential lots created after February 22, 2000, for general development lakes are as follows:

| Unsewered | Riparian Lots |       | Nonriparian Lots |       |
|-----------|---------------|-------|------------------|-------|
|           | Area          | Width | Area             | Width |
| Single    | 43,560        | 100   | 43,560           | 150   |
| Duplex    | 60,000        | 180   | 80,000           | 265   |

| Sewered | Riparian Lots |       | Nonriparian Lots |       |
|---------|---------------|-------|------------------|-------|
|         | Area          | Width | Area             | Width |
| Single  | 15,000        | 75    | 40,000           | 75    |
| Duplex  | 26,000        | 135   | 17,500           | 135   |

- e. Placement of structures on lots.
1. When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered with a variance to conform to the adjoining setbacks from the ordinary high water level, provided that the proposed building site is not located in a shore impact zone or in a bluff impact zone.
  2. Structures and on-site sewage system on general development lakes must setback from the ordinary high water level as follows:

|                                  |         |
|----------------------------------|---------|
| Sewered structures               | 50 feet |
| Unsewered structures             | 75 feet |
| On-site sewage treatment systems | 50 feet |

One water-oriented accessory structure designed in accordance with subsection 14-111(b), design criteria for structures, may be set back a minimum distance of ten feet from the ordinary high water level.

3. Additional structure setbacks:

| Setback From       | Distance                     |
|--------------------|------------------------------|
| Top of bluff       | 30 feet                      |
| Unplatted cemetery | 50 feet                      |
| Roadways           | As established in chapter 24 |

4. Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

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5. Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- (4) *Agricultural river standards.* The permitted, conditional, and interim uses listed in this subsection for agricultural river districts are generally consistent with the permitted, conditional, and interim uses of the agricultural and conservation district of chapter 24.
- a. Special protection district.
    1. Permitted uses:
      - i. Sensitive resources management.
      - ii. Agriculture: cropland and pasture.
      - iii. Single-family dwellings.
      - iv. Small solar energy systems.
    2. Conditional uses:
      - i. Parks and historic sites.
    3. Interim uses:
      - i. Level I home occupations as regulated in section 24-326.
      - ii. Extractive use as regulated in section 24-329.
      - iii. Short-term rental units as regulated by section 24-337.
  - b. Residential district.
    1. Permitted uses:
      - i. Single-family dwelling.
      - ii. Small solar energy systems.
    2. Conditional uses:
      - i. Parks and historic sites.
    3. Interim uses:
      - i. Level I home occupations as regulated in section 24-326.
      - ii. Duplexes in districts allowing multi-family dwellings.
      - iii. Semipublic uses.
      - iv. Short-term rental units as regulated by section 24-337.
  - c. Water-oriented commercial district.
    1. Permitted uses:
      - i. Small solar energy systems.
    2. Conditional uses:
      - i. Surface water-oriented commercial.

- ii. Parks and historic sites.
- 3. Interim uses:
  - i. Semipublic uses.
  - ii. Short-term rental units as regulated by section 24-337.
- d. Lot width standards. The lot width for a one-family dwelling is 150 feet, or 225 feet for a duplex.
- e. Placement of structures on lots.
  - 1. When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered with a variance to conform to the adjoining setbacks from the ordinary high water level, provided that the proposed building site is not located in a shore impact zone or in a bluff impact zone.
  - 2. Structures and on-site sewage system in agricultural river districts must setback from the ordinary high water level as follows:

|                                  |          |
|----------------------------------|----------|
| Sewered structures               | 50 feet  |
| Unsewered structures             | 100 feet |
| On-site sewage treatment systems | 75 feet  |

One water-oriented accessory structure designed in accordance with subsection 14-111(b), may be set back a minimum distance of ten feet from the ordinary high water level.

- 3. Additional structure setbacks.

| Setback From       | Distance                     |
|--------------------|------------------------------|
| Top of bluff       | 30 feet                      |
| Unplatted cemetery | 50 feet                      |
| Roadways           | As established in chapter 24 |

- 4. Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
  - 5. Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- (5) *Transitional river standards.* The permitted, conditional, and interim uses listed below for transitional river districts are generally consistent with the permitted, conditional, and interim uses of the agricultural and conservation district of chapter 24.
- a. Special protection district.
    - 1. Permitted uses:
      - i. Sensitive resources management.
      - ii. Agriculture: cropland and pasture.



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- iii. Single-family dwelling.
      - iv. Small solar energy systems.
    2. Conditional uses:
      - i. Parks and historic sites.
    3. Interim uses:
      - i. Level I home occupations as regulated in section 24-326.
      - ii. Extractive use as regulated in section 24-329.
      - iii. Short-term rental units as regulated by section 24-337.
  - b. Residential district.
    1. Permitted uses:
      - i. Single-family dwelling.
      - ii. Small solar energy systems.
    2. Conditional uses:
      - i. Parks and historic sites.
    3. Interim uses:
      - i. Level I home occupations as regulated in section 24-326.
      - ii. Duplexes in districts allowing multifamily dwellings.
      - iii. Semipublic uses.
      - iv. Short-term rental units as regulated by section 24-337.
  - c. Water-oriented commercial district.
    1. Permitted uses: None.
    2. Conditional uses:
      - i. Surface water-oriented commercial.
      - ii. Parks and historic sites.
    3. Interim uses:
      - i. Semipublic uses.
      - ii. Short-term rental units as regulated by section 24-337.
  - d. Lot width standards. The lot width for a single-family dwelling is 250 feet, or 375 feet for a duplex.
  - e. Placement of structures on lots.
    1. When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered with a variance to conform to the adjoining setbacks from the ordinary high water level, provided that the proposed building site is not located in a shore impact zone or in a bluff impact zone.

2. Structures and on-site sewage system in transitional river districts must setback from the ordinary high water level as follows:

|                                  |          |
|----------------------------------|----------|
| Sewered structures               | 150 feet |
| Unsewered structures             | 150 feet |
| On-site sewage treatment systems | 100 feet |

One water-oriented accessory structure designed in accordance with subsection 14-111(b), design criteria for structures, may be set back a minimum distance of ten feet from the ordinary high water level.

3. Additional structure setbacks:

| Setback From       | Distance                     |
|--------------------|------------------------------|
| Top of bluff       | 30 feet                      |
| Unplatted cemetery | 50 feet                      |
| Roadways           | As established in chapter 24 |

4. Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
5. Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- (6) *Tributary river standards.* The permitted, conditional, and interim uses listed below for tributary river districts are generally consistent with the permitted, conditional, and interim uses of the agricultural and conservation district of chapter 24.
- a. Special protection district.
1. Permitted uses:
    - i. Sensitive resources management.
    - ii. Agriculture: cropland and pasture.
    - iii. Single-family dwellings.
    - iv. Small solar energy systems.
  2. Conditional uses:
    - i. Parks and historic sites.
  3. Interim uses:
    - i. Extractive use as regulated in section 24-329.
    - ii. Level I home occupations as regulated in section 24-326.
    - iii. Short-term rental units as regulated by section 24-337.
- b. Residential district.

1. Permitted uses:
    - i. Single-family dwelling.
    - ii. Parks and historic sites.
    - iii. Small solar energy systems.
  2. Conditional uses:
    - i. No uses.
  3. Interim uses:
    - i. Level I home occupations as regulated in section 24-326.
    - ii. Duplexes in districts allowing multi-family dwellings.
    - iii. Semipublic uses.
    - iv. Short-term rental units as regulated by section 24-337.
- c. Water-oriented commercial district.
1. Permitted uses: Small solar energy systems.
  2. Conditional uses:
    - i. Surface water-oriented commercial.
    - ii. Parks and historic sites.
  3. Interim uses:
    - i. Semipublic uses.
    - ii. Short-term rental units as regulated by section 24-337.
- d. Lot width standards. The lot width for one-family dwelling is 100 feet with an individual sewage treatment system, or 75 feet with a community sewer system. The lot width for a duplex is 150 feet with an individual sewage treatment system, or 115 feet with a community sewer system.
- e. Placement of structures on lots.
1. When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered with a variance to conform to the adjoining setbacks from the ordinary high water level, provided that the proposed building site is not located in a shore impact zone or in a bluff impact zone.
  2. Structures and on-site sewage system in tributary river districts must setback from the ordinary high water level as follows:

|                                  |          |
|----------------------------------|----------|
| Sewered structures               | 50 feet  |
| Unsewered structures             | 100 feet |
| On-site sewage treatment systems | 75 feet  |

One water-oriented accessory structure designed in accordance with subsection 14-111(b), design criteria for structures, may be set back a minimum distance of ten feet from the ordinary high water level.

3. Additional structure setbacks:

| Setback From       | Distance                     |
|--------------------|------------------------------|
| Top of bluff       | 30 feet                      |
| Unplatted cemetery | 50 feet                      |
| Roadways           | As established in chapter 24 |

4. Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
5. Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(e) *Inconsistent land use districts.*

- (1) The land use districts adopted in sections 24-81 and 24-82 of this Code, as they apply to shoreland areas, and their delineated boundaries on the official land use map, are generally consistent with the land use district designation criteria specified in this section. Where inconsistent land use districts may exist, the designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the official land use map or to modify the boundary of an existing land use district shown on the official land use map.
- (2) When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:
  - a. For lakes. When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this chapter on such lake must be revised to make them substantially compatible with the framework contained in subsection (a) of this section, land use district criteria, and subsection (d) of this section, land use district descriptions.
  - b. For rivers and streams. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this chapter must be revised to make them substantially compatible with the framework contained in subsections (a) and (d) of this section. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need to be evaluated and revised.
- (3) When an interpretation question arises about whether a specific land use fits within a given "use" category, the interpretation shall be made by the board of adjustment. When a question arises as to whether a land use district's boundaries are properly delineated on the official land use map, this decision shall be made by the board of adjustment.
- (4) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The board of commissioners will direct the zoning administrator to provide such additional information for this water body as is necessary to satisfy subsections (e)(1) and (2) of this section.
- (5) The board of commissioners must make a detailed finding of fact and conclusion when taking final action to verify that this revision, and the upgrading of any inconsistent land use district designations

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on such water body, are consistent with the enumerated criteria and use provisions contained in this section.

(Ord. No. 110, § 6, 2-22-2000; Ord. of 2-16-2016; Ord. of 1-19-2021(3), Att. A; Ord. of 3-22-2022, Att. 1)

**Secs. 14-83—14-110. Reserved.**

## **ARTICLE IV. DESIGN CRITERIA, SHORELAND ALTERATIONS AND SPECIAL PROVISIONS**

### **Sec. 14-111. Design criteria.**

(a) *Controlled access lots.*

- (1) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:
  - a. They must meet the width and size requirements for residential lots and be suitable for the intended uses of controlled access lots.
  - b. If docking, mooring or over-water storage of more than six watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

*Controlled Access Lot Frontage Requirements*

| Ratio of lake size to shore length (acres/mile) | Required increase in frontage (percent) |
|---|---|
| Less than 100                                   | 25                                      |
| 100—200   | 20                                      |
| 201—300   | 15                                      |
| 301—400   | 10                                      |
| Greater than 400                                | 5                                       |

- c. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.
- d. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

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(b) *Design criteria for structures.*

- (1) *High water elevations.* Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including the basement, is placed or floodproofed must be determined as follows:
  - a. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher.
  - b. For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection evaluation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with chapter 8 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.
  - c. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this subsection if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- (2) *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure setback in subsection 14-82(d), if this water-oriented accessory structure complies with the following provisions:
  - a. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.
  - b. The setback of the structure or facility from the ordinary high water level must be at least ten feet.
  - c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
  - d. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.
  - e. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
  - f. As an alternative for general development and recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 250 square feet provided the maximum width of the structure is 12 feet as measured parallel to the configuration of the shoreline.
- (3) *Stairways, lifts and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and on bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

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- a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.
  - b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, and public open-space recreational properties.
  - c. Canopies or roofs are not allowed on stairways, lifts or landings.
  - d. Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided that they are designed and built in a manner that ensures control of soil erosion.
  - e. Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
  - f. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (b)(3)a and (b)(3)b of this section are complied with in addition to the requirements of the state building code, chapter 1340, commonly known as the Handicapped Accessibility Law.
- (4) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- (5) *Steep slopes.* The zoning administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
- (c) *Height of structures.* All structures in shoreland residential districts, except churches and nonresidential agricultural structures, must not exceed 35 feet in height.

(Ord. No. 110, § 7, 2-22-2000)

**Sec. 14-112. Site design, conversion of existing common interest communities, (CICs); resorts; manufactured home parks; and other similar rezoning ordinance nonconforming developments.**

Rezoning ordinance nonconforming developments exist in the county. Minn. Stats. chs. 394.21 to 394.37 gives counties the authority to regulate land development by adopting official land use controls. It is the intent of this section to allow for flexibility in the conversion of existing common interest communities, resorts, and other similar rezoning ordinance developments. Conversion of such developments from privately owned structures on leased or rented land, or the division of several commonly owned structures on a single parcel of land to individually owned parcels containing separate structures, shall be pursuant to all requirements of Minn. Stats. ch. 515A and/or ch. 515B, as applicable. By requiring that all existing developments be converted to private ownership via the planned unit development procedure, and by carefully considering individual requests and attaching appropriate limitations to conditional use permits authorizing the planned unit development, common interest communities can be converted in a reasonably responsible manner. This will permit conversion of rental property

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into privately owned property with the approval of the county and may allow limited alterations and/or improvements in a manner which minimizes any adverse effect on adjoining property owners and the environment. All planned unit developments shall be subject to the following:

- (1) *Conversion of manufactured home parks.* Conversion of manufactured home parks shall be subject to all additional requirements of Minn. Stats. ch. 327C.095, park closings.
- (2) *Development density.* The area of the parcel being subdivided and the location of existing structures shall limit the density of the existing development. The developer shall make every effort to minimize the degree of nonconformity with existing lot and area requirements. Lot lines shall be arranged to provide the largest possible setbacks between structures which will become the main buildings on newly created parcels. Outbuildings shall be moved/removed when and where possible to create the lowest, most uniform density possible. Particular attention shall be paid to the intensity of development in relationship to the required space to provide for adequate wastewater treatment, potable drinking water and compliance with applicable health, safety and fire regulations.
- (3) *Integrated plan.* To the extent possible, the common open space, any other common properties, individual properties, and all other elements of the PUD shall be so planned that they will achieve a unified scheme of integrated planning and a harmonious selection and efficient distribution of uses.
- (4) *Bulk and density controls.*
  - a. Minimum size of development: five acres.
  - b. Height of main building: 35 feet.
  - c. Setback from any dedicated public right-of-way: 25 feet.
  - d. Distance between main building and any adjoining side yard property line: ten feet.
  - e. Distance between any accessory building and any adjoining property line: five feet.
  - f. Distance between main building and adjoining rear yard property line: 25 feet.
- (5) *General standards.*
  - a. The conversion of eligible types of developments shall be subject to a conditional use permit granted by the board of commissioners subsequent to public hearings required by Minn. Stats. ch. 394. The conversion of the planned or common interest community shall be as a planned unit development.
  - b. Common interest communities shall meet minimum guidelines established by the 1995 Common Interest Community Plat Manual adopted by the Minnesota Society of Professional Surveyors and the Minnesota Association of County Surveyors. Such plat manual and subsequent amendments shall be adopted by reference and shall become part of this chapter. CIC plats, declarations, covenants and other materials associated with the development shall be recorded in the county land records department after approval by the board of commissioners.
  - c. The CIC process may not be utilized to create new vacant lots for building purposes. Only parcels upon which a structure has been erected may be created for transfer to private ownership.
  - d. Conditions attached to the conditional use permit shall be carefully considered and shall be designed to protect the public health, safety and welfare. Conditions may limit use of property to existing use, limit future expansion or intensification of use, density, lot coverage and building bulk. Conditions may require repair or removal of buildings and may establish a timetable for the same. Conditions may require restrictions on landscaping and/or removal of vegetation and establishment of vegetative screening where needed. Conditions may include restrictions on



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colors of structures, and/or may require repainting of existing structures to neutral colors which blend into the surrounding natural environment.

- e. The planning commission shall consider the development as a whole relating to the provision of water and sewer in cases where lots are too small to provide for individual wells and on-site sewage treatment systems, and shall require connection to municipal services where they are available. In areas where municipal services are not available design plans shall be presented and approved for a community wastewater treatment system as an integral element of the CIC approval. A timeline to implement the approved wastewater treatment plan and/or eliminate all identified failing septic systems shall be established by the conditional use permit.
- f. When variances from the bulk and density controls set forth in subsection (4) of this section are required, such variances shall be obtained from the county board of adjustment before the CIC is presented to the county planning commission and board of commissioners for approval. A list of necessary variances shall be provided by the surveyor or engineer preparing the CIC plat.
- g. No planned or common interest community shall be accepted for recording by the county land records department until approved by the board of commissioners.

(Ord. No. 110, § 7, 2-22-2000)

### **Sec. 14-113. Shoreland alterations.**

- (a) *Generally.* Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.
- (b) *Vegetative alterations.*
  - (1) A vegetative alteration permit is required for the construction of structures, sewage treatment systems, and the construction of roads or parking areas regulated by section 14-114.
  - (2) Removal or alteration of vegetation, except for agricultural uses as regulated in subsection 14-116(b), is allowed subject to the following standards:
    - a. No vegetation shall be removed within bluff impact zones, on steep slopes, and in shore impact zones, except in conjunction with an approved shoreland alteration permit to accommodate the placement of stairways, landings, access paths, or shoreland alterations as regulated by subsections (c) and (d) of this section, vegetative alterations. A shoreland alteration permit may be issued to remove native shrubs or ground cover plants and replace them with shrubs or ground cover plants which will maintain the same ground cover as the native shrubs in accordance with property and environmental resources department policy providing that such replacement will not decrease the overall screening of the lot as viewed from the lot as viewed from the water, assuming summer, leaf-on conditions. In addition, the replacement shrubs or ground cover plants may not be a species listed by the Minnesota Department of Natural Resources as an invasive species.
    - b. Between the shore impact zone and the building setback line, the removal of up to 25 percent of the trees and 100 percent of the brush is allowed provided that it is not located on a steep slope or in the bluff impact zone. Pruning and trimming of the lower branches of trees is allowed to provide a view of the lake from the lower story windows of the house. Trimming and/or removal of trees is permitted to provide a clear space to accommodate the installation of stairways, landings or access paths to the water.

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- c. Intensive clearing outside of the bluff impact zone or shore impact zone is allowed if it is consistent with the forest management standards in section 14-116 of this article.
- (3) All vegetative alterations are subject to the following conditions:
- a. The removal of vegetation must not be done in any contiguous strip or row over 12 feet in width.
  - b. The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, must not be substantially reduced.
  - c. Along rivers, existing shading of water surfaces must be preserved.
  - d. All cutting must be done by hand. Topsoil must not be disturbed.
  - e. Erosion and stormwater control methods indicated by the County Soil and Water Conservation District must be implemented.
  - f. Removal of trees, limbs or branches that are dead, diseased or pose safety hazards is allowed. Dead trees or shrubs which provided substantial screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, must be replaced.
- (c) *Topographic alterations; grading and filling.*
- (1) In no case shall cutting or filling be allowed for the purpose of establishing a site for the erection of a structure. Limited grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. The grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.
- (2) Public roads and parking areas are regulated by section 14-114.
- (3) Except for subsections (c)(1) and (c)(2) of this section, a permit will be required for:
- a. The movement of ten to 50 cubic yards of material on steep slopes or within shore or bluff impact zones requires a shoreland alteration permit.
  - b. The movement or placement of more than 50 cubic yards of material requires an interim use permit.
- (4) The following conditions shall apply to all the permits and approvals under the jurisdiction of this chapter:
- a. Grading or filling in any wetland must be undertaken in accordance with the rules of the Minnesota Wetlands Conservation Act, Minn. Stats. chs. 103A—103G;
  - b. No impervious surface such as concrete or asphalt wider than four feet is permitted in the shore impact zone except as allowed for roads in section 14-114;
  - c. Excavations to create walk-out basements shall not be allowed within bluff or shore impact zones;
  - d. Mulches or similar materials must be used for temporary bare soil coverage. A permanent vegetation cover must be established within 14 days of completion of project;
  - e. Methods must be utilized which minimize soil erosion and trap sediments before they reach any surface water feature;
  - f. Altered areas must be stabilized to erosion control standards consistent with the field office technical guide of the United States Natural Resources Conservation Service or other applicable technical standards;

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- g. Fill or excavated material must not be placed in any bluff impact zone;
  - h. Any alterations below the ordinary high water mark of public waters must be authorized by the state department of natural resources under Minn. Stats. § 103G.245;
  - i. Alterations of topography must be accessory to a permitted, conditional use, or interim use and must not adversely affect adjacent or nearby properties; and
  - j. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, requires a shoreland alteration permit, unless an interim use is required by subsection (c)(3)b of this section. The finished slope must not exceed three feet horizontal to one foot vertical, the landward extension of the riprap must be within 12 feet of the ordinary high water mark, and the height of the riprap above the ordinary high water level must not exceed three feet unless authorized by an interim use permit.
- (5) Shoreline or ice ridge alteration.
- a. A shoreland alteration permit is required for any ice ridge alteration when a conditional use permit is not required pursuant to subsection (c)(3)b of this section.
    - 1. Any disturbed soil must be protected from sedimentation with a geo-textile blanket and natural rock riprapping for at least the first ten feet above the ordinary high water mark of the water body. Disturbed soil above the ordinary high water mark must be covered with sod or seeded with a grass variety which will flourish given soil, shade and water conditions.
    - 2. All disturbed material must be graded landward or removed from the site.
    - 3. Any alteration below the ordinary high water line on shorelines may require approvals from the state department of natural resources and/or U.S. Army Corps of Engineers.
- (6) Connection to public waters. Excavations where the intended purpose is for connection to a public water, such as boat slips, canals, lagoons and harbors are conditional uses. Permission for excavations may be given only after the commissioner of the state department of natural resources has approved the proposed connection to public waters.

(Ord. No. 110, § 7, 2-22-2000; Ord. of 2-25-2003, § 2; Ord. of 1-19-2021(3), Att. A)

#### **Sec. 14-114. Placement and design of roads, driveways and parking areas.**

- (a) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the county soil and water conservation district, or other applicable technical materials.
- (b) Roads, driveways and parking areas must not be placed within bluff and shore impact zones, unless no other reasonable and feasible placement alternatives exist. If no other alternatives exist, they may be placed within these areas, but must be designed to minimize adverse impacts.
- (c) Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones, provided that the vegetation screening and erosion control conditions of this chapter are met. For private facilities, the grading and filling provisions contained in subsection 14-113(c) must be met.

(Ord. No. 110, § 7, 2-22-2000)

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## **Sec. 14-115. Stormwater management standards.**

The following general and specific standards shall apply to the management of stormwater:

(1) *General standards.*

- a. When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities. Developments with a total disturbed surface of five acres or greater must have a stormwater control plan as required by Minnesota Pollution Control Agency Rules. Developments with one acre or more of impervious surface must also have a stormwater control plan.

(2) *Specific standards.*

- a. Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the county soil and water conservation district.
- c. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(Ord. No. 110, § 7, 2-22-2000)

## **Sec. 14-116. Special provisions.**

(a) *Standards for commercial, public and semipublic uses.*

- (1) Surface water-oriented commercial uses and public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
  - a. In addition to meeting impervious coverage limits, setbacks and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
  - b. Uses that require short term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions or navigation and to be the minimum size necessary to meet the need.
  - c. Sign permits are required for all signs. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

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1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
  2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.
  3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- (2) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- (b) *Agriculture use standards.*
- (1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the County Soil and Water Conservation District or the natural resources conservation service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
  - (2) Animal feedlots must meet the following standards:
    - a. New feedlots must not be located within designated shoreland areas.
    - b. Modifications or expansions to existing feedlots that are located within designated shoreland areas are prohibited, except that modifications may be permitted via a conditional use permit to mitigate an existing pollution problem.
    - c. A county feedlot permit, Minnesota Pollution Control Agency certificate of compliance, interim permit or animal feedlot permit must be obtained by the owner or operator of an animal feedlot when required by article II of chapter 6, pertaining to livestock manure management, or the Minnesota Pollution Control Agency Rules, parts 7020.0100 to 7020.1900.
- (c) *Extractive use standards.*
- (1) *Site development and restoration plan.* A conditional use permit must be obtained subject to the requirements of sections 24-423, 24-424 and 24-426. An extractive use site development and restoration plan must be developed, approved and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
  - (2) *Setbacks for processing machinery.* Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

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(d) *Forest management standards.*

- (1) The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions contained in the publication "Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers" as amended. Plans for the harvesting of timber must be reviewed by the Soil and Water Conservation District prior to starting and work.
- (2) Intensive vegetation clearing of forest land to convert land to another use is an interim use subject to an erosion control and sedimentation plan approved by the County or Soil and Water Conservation District prior to starting of any work.

(Ord. No. 110, § 7, 2-22-2000; Ord. of 1-19-2021(3), Att. A)

**Sec. 14-117. Water supply and sewage treatment.**

- (a) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and the Minnesota Pollution Control Agency.
- (b) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
  - (1) Publicly owned sewer systems must be used where available. Cost of extension and installation shall not be a factor.
  - (2) All private sewage treatment systems must meet or exceed the county individual sewage treatment article, article IV of chapter 6 and the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080," a copy of which is hereby adopted by reference and declared to be a part of this chapter.
  - (3) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in subsection 14-82(d) pertaining to land use district descriptions.
  - (4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsections (b)(4)a—d of this section. It shall be the responsibility of the applicant to provide an acceptable system design drafted by a Minnesota Pollution Control Agency licensed septic systems designer.
    - a. Depth to the highest known or calculated groundwater table or bedrock.
    - b. Soil conditions, properties and permeability.
    - c. Slope.
    - d. The existence of lowlands, local surface depressions and rock outcrops.
  - (5) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 14-154 pertaining to nonconforming sewage treatment systems.
- (c) *Sewage holding tanks.* Sewage holding tanks may be authorized as a temporary use for existing seasonal cabins or yearround dwelling units in instances where suitable soil treatment area is not available to service the structure. In no case shall construction permits be issued for new seasonal cabins or yearround dwelling units, or for expansion to or replacement of seasonal cabins or dwelling units, which will be not connected to septic systems consisting of a septic tank and drainfield or other approved soil absorption system or secondary treatment complying with the county individual sewage treatment article, article IV, chapter 6.

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- (d) *Municipal sewer and water connection.* If an approved municipal sewer and water treatment system is reasonably available to a use and the board of commissioners determines that a potential pollution hazard exists, the board of commissioners may require that such use be serviced by such municipal water and sewer system.

(Ord. No. 110, § 7, 2-22-2000)

**Secs. 14-118—14-150. Reserved.**

***ARTICLE V. NONCONFORMING USES<sup>15</sup>***

**Sec. 14-151. Continuation of established nonconforming uses.**

All legally established nonconforming uses as of February 22, 2000, may continue, but they will be managed according to state statutes, the zoning chapter (chapter 24 of this Code) and other applicable county ordinances relating to alterations and additions, repair after damage, discontinuance of use and intensification of use; except that the standards of this article will also apply in shoreland areas.

(Ord. No. 110, § 8, 2-22-2000)

**Sec. 14-152. Construction on nonconforming lots of record.**

- (a) Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements contained in section 14-82, pertaining to land use districts, may be allowed as building sites without variances from lot size requirements, provided that the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.
- (b) If any individual lot, in a group of two or more contiguous lots under the same ownership, does not meet the requirements contained in section 14-82, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the contiguous lot so it equals, to the extent possible, one or more buildable parcels of land, each meeting the requirements of section 14-82.

(Ord. No. 110, § 8, 2-22-2000)

**Sec. 14-153. Additions/expansions to nonconforming structures.**

All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height and other requirements contained in article III, shoreland classification and land use districts, and article IV, pertaining to design criteria, shoreland alterations and special provisions. Any deviation from these requirements must be authorized by a variance pursuant to section 14-44 pertaining to variances.

(Ord. No. 110, § 8, 2-22-2000)

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<sup>15</sup>Cross reference(s)—Zoning, ch. 24.

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**Sec. 14-154. Nonconforming sewage treatment systems.**

- (a) A sewage treatment system not meeting the requirements contained in subsection 14-117(b) must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this subsection, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- (b) The board of commissioners has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems by a systematic review of existing records and also to initiate a program of information and education to encourage property owners to voluntarily upgrade nonconforming sewage treatment systems. The county will require upgrading or replacement of any nonconforming system identified by this program at any time a permit or variance of any type is required for any improvement on, or use of, the property. Sewage systems installed according to all applicable local shoreland management standards adopted under Minn. Stats. § 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's chapter 7080 for design on-site sewage treatment systems, shall be considered nonconforming.

(Ord. No. 110, § 8, 2-22-2000)

**Secs. 14-155—14-190. Reserved.**

***ARTICLE VI. SUBDIVISION AND PLATTING<sup>16</sup>***

**Sec. 14-191. Land suitability.**

Each lot created through subdivision of this chapter, must be suitable in its natural state for the proposed use with minimal alteration. In no case shall cutting or filling be allowed for the purpose of establishing a site for the erection of a structure. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision.

(Ord. No. 110, § 9, 2-22-2000)

**Sec. 14-192. Consistency with other controls.**

- (a) Subdivisions must conform to the chapter 20, pertaining to subdivisions, and all official controls of the county. A subdivision will not be approved where a subsequent variance from one or more standards of the official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is

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<sup>16</sup>Cross reference(s)—Subdivisions, ch. 20.



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available and a sewage treatment system consistent with section 14-82 pertaining to land use districts, and section 14-117 pertaining to water supply and sewage treatment, can be provided for every lot.

- (b) Subdivisions consisting of more than four residential lots per quarter-quarter section will not be approved unless served by municipal (city) utilities. Each lot shall meet the minimum lot area as defined in subsection 14-4(e), free of limiting factors, and sufficient for the construction of two standard soil treatment systems. In addition, each lot must meet the size and dimensional requirements of section 14-82. Lots that would require use of holding tanks shall not be approved.

(Ord. No. 110, § 9, 2-22-2000)

### **Sec. 14-193. Information submittal requirements.**

Information as required to be submitted by section 20-111, pertaining to preliminary plats, and section 20-112, pertaining to final plats, must be submitted by the applicant to enable the board of commissioners to determine if the land is suitable for development.

(Ord. No. 110, § 9, 2-22-2000)

### **Sec. 14-194. Dedications.**

When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands. All land or water dedications and granted easements shall be as delineated in section 20-203, pertaining to easements; section 20-204, pertaining to dedications generally; and section 20-206, pertaining to the dedication of street, public utility and environmental corridor easements.

(Ord. No. 110, § 9, 2-22-2000)

### **Sec. 14-195. Platting.**

All divisions of land shall be processed pursuant to the requirements of chapter 20, pertaining to subdivisions. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot complies with chapter 20.

(Ord. No. 110, § 9, 2-22-2000)

### **Sec. 14-196. Controlled access or recreational lots.**

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in subsection 14-111(a), pertaining to controlled access lots.

(Ord. No. 110, § 9, 2-22-2000)

## **Chapter 16 SOLID WASTE MANAGEMENT<sup>17</sup>**

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<sup>17</sup>Cross reference(s)—Environment, ch. 6; utilities, ch. 22.

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State law reference(s)—Authority to regulate the deposit of solid waste, Minn. Stats. § 375.18, subd. 14.

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## Sec. 16-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agency* means the Minnesota Pollution Control Agency.

*Air contaminant* means the presence in the outdoor atmosphere of any dust, fumes, mist, vapor, gas or gaseous, fluid or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

*Air pollution* means the presence in the outdoor atmosphere of any air contaminant or combination thereof in such quantity, of such nature and duration, and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

*Closure post-closure contingency fund* means a fund established and maintained by sanitary landfill and demolition landfill owners/operators with the county board designated as custodian of the fund. The county board shall control all disbursements from the fund for the purposes of final closure of the affected landfill by placement of earthen cover, grading, establishing vegetation, installation of gas and leachate collection and monitoring systems. Post-closure and contingency expenditures include, but are not limited to, cost of ongoing monitoring of gas, leachate and the ground water as well as maintenance of the landfill cover, and other activities to protect the environment, health, and safety of the public.

*Commercial hauler* means any person, as defined in this section, who owns, operates, or leases vehicles for hire for the purpose of collection and/or transportation of any type of solid waste.

*County* means any department or representative of the county who is authorized by this chapter or otherwise by the county board to represent the county in the enforcement or administration of this chapter.

*Cover material* means granular material, generally soil which is used to cover compacted solid waste in a sanitary landfill, is generally free of large objects that would hinder compaction, and is free of organic content that would be conducive to vector harborage, feeding or breeding.

*Demolition landfill* means an area of land which is or could be used for the final disposal of demolition waste only. The method of disposal shall be conducted to minimize environmental hazards by employing approved engineering techniques for filling and covering of the waste material. The site shall comply with appropriate Minnesota Pollution Control Agency regulations and county licensing requirements.

*Demolition waste* means waste material resulting from the demolition of buildings, roadways, and other structures including, but not limited to, aggregate, earthen fill, wood, masonry, concrete, bituminous, steel, and associated materials commonly found in buildings or other structures. Prohibited materials include all toxic or hazardous wastes, garbage, rubbish, and other putrescible refuse and incinerator ash.

*Garbage* means material resulting from the handling, processing, storage, preparation, serving and consumption of food.

*Incineration* means the process by which solid wastes are burned for the purpose of volume and weight reduction in facilities designed for such use.

*Incinerator ash* means both the fly ash and bottom ash, either separately or combined, resulting from the incineration of solid waste. Incinerator ash having unique and potentially hazardous properties shall be treated as an industrial waste requiring close evaluation and control of disposal practices and shall not be disposed of at a demolition landfill.

*Intermediate disposal facility* means a facility for the storage, reduction, recycling, or processing of solid waste prior to final disposal.

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*Land pollution* means the presence in or on the land of any solid waste in such quantity, of such nature or duration, and under such conditions as would affect injuriously any waters of the state, create air contaminants, or cause air pollution.

*Licensee* means a person who has been issued a license by the board of commissioners for solid waste management purposes pursuant to this chapter.

*Operation* means any site, facility, or activity relating to solid waste management.

*Person* means any human being, any municipality or any other governmental or political subdivision or public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.

*Putrescible material* means solid waste which is capable of becoming rotten or which may reach a foul state of decay or decomposition.

*Refuse* means putrescible and nonputrescible solid wastes, including, but not limited to, garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, market and industrial solid wastes, and sewage treatment wastes which are in a dry form.

*Rubbish* means nonputrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

*Sanitary landfill* means an area of land which is or could be used for the disposal of solid waste without creating pollution of land or air, hazards to the public health or safety, or public nuisance, by utilizing the principles of engineering to confine the solid waste to the smallest practical volume and to cover it with at least six inches of cover material at the conclusion of each day's operation, or at more frequent intervals as may be necessary.

*Shoreland* means land located within the following distances from the ordinary high water elevation of public waters:

- (1) Land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and
- (2) Land within 300 feet of a river or stream or the landward side of a floodplain delineated by ordinance on such a river or stream, whichever is greater.

*Solid waste* means garbage, refuse, and other discarded solid materials, except animal waste used as fertilizer, including solid waste materials resulting from industrial, commercial, agricultural operations, and community activities, but does not include earthen fill, boulders, rock and other materials normally handled in construction operations, solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or wastewater effluent, dissolved materials, suspended solids in irrigation return flows, or other common water pollutants.

*Solid waste management* means the storage, collection and removal of solid waste from public and private property, its transportation to intermediate or final disposal facilities and its disposal by approved methods.

*Solid waste management facility* means a sanitary landfill or transfer station as defined in this section.

*Transfer station* means an intermediate solid waste disposal facility, whether fixed or mobile, in which solid waste collected from any source is temporarily deposited to await transportation to the final disposal site or facility.

*Water pollution* means the contamination of any waters of the state so as to create a nuisance or render such waters unclean, obnoxious or impure, so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, commercial or industrial use, or to animals, birds, fish or other aquatic life.

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*Waters of the state* means all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

(Ord. of 1-23-1973, § 1)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 16-2. Administration and enforcement.**

- (a) The county environmental services department shall be responsible for general administration and enforcement of this chapter.
- (b) The environmental services department shall inspect operations to determine compliance, issue licenses and permits, notices of violation, and notices of suspension or revocation of licenses or permits; prepare required reports; investigate complaints about violations and report violations to the county attorney; and keep records of all transactions conducted under this chapter.
- (c) The environmental services department shall advise, consult, and cooperate with the public and other governmental agencies in furtherance of the purposes of this chapter.
- (d) Any reference to solid waste officer in this chapter and all county ordinances shall now mean the environmental services department.

(Ord. of 1-23-1973, § 3)

### **Sec. 16-3. Variances.**

- (a) Upon written application by the applicant or operator, the county board may grant variances from the provisions of this chapter in order to promote the effective and reasonable application and enforcement of the provisions of this chapter.
- (b) A variance may be granted by the county board after a public hearing where the county board determines that enforcement of this chapter would cause the applicant undue hardship, or that the provisions of this chapter cannot be complied with due to technological impossibility or economic unreasonableness. Such a variance shall not be granted for a period in excess of two years, but may be renewed upon application of the applicant and after public hearing. A variance may be revoked by the county board at the public hearing prior to expiration of the variance. An application for a variance shall be accompanied by a plan and time schedule for achieving compliance with the provisions of this chapter. Prior to any public hearing held by the county board under this provision, persons who may be adversely affected by the granting of the proposed variance shall be given at least 30 days' notice of the public hearing.

(Ord. of 1-23-1973, § 10)

### **Sec. 16-4. Nonconforming sites and facilities.**

Solid waste management facilities in existence on the effective date of the ordinance from which this chapter derives and operation of such facilities shall conform to the provisions of such ordinance no later than 60 days after the adoption of such ordinance, or terminate operations no later than that date, unless granted a variance.

(Ord. of 1-23-1973, § 11)

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### **Sec. 16-5. Additional requirements.**

For the purpose of protecting the public health, safety and welfare, the county board may impose additional requirements consistent with the intent of this chapter for the operation of solid waste management sites or facilities.

(Ord. of 1-23-1973, § 12)

### **Sec. 16-6. Provisions are accumulative.**

The provisions of this chapter are accumulative and additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter, covering any subject matter in this chapter.

(Ord. of 1-23-1973, § 14)

### **Sec. 16-7. Other ordinances and regulations.**

Nothing in this chapter shall preclude any local unit of government from adopting stricter regulations than this chapter.

(Ord. of 1-23-1973, § 17)

### **Sec. 16-8. Chapter not deemed consent.**

Nothing contained in this chapter shall be deemed to be a consent, license, or permit to locate, construct, operate or maintain any site, facility or operation, or to carry on any activity.

(Ord. of 1-23-1973, § 15)

### **Sec. 16-9. Violations.**

- (a) Any person who shall violate or fails, neglects or refuses to comply with the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished therefor as provided by state law. A separate offense shall be deemed committed upon each separate day during or on which a violation occurs or continues. The county is responsible for the enforcement of this chapter.
- (b) This chapter, in addition to other remedies, may be enforced by injunction, action to compel performance or other appropriate action in district court to prevent, restrain, correct or abate violations.

(Ord. of 1-23-1973, § 16)

### **Sec. 16-10. Licenses generally.**

- (a) No person shall cause, permit, or allow his land or property under his control to be used for solid waste management purposes, except at an operation for which a license has been granted by the county board, unless otherwise provided by this chapter. A license shall not be required under this chapter for any site used for the disposal of solid waste from only a single family or household, a member of which is the owner, occupant or lessee of the property, but such site shall be operated and maintained in a nuisance-free and aesthetic manner consistent with the intent of this chapter.

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- (b) Any operation to be used for any method of solid waste management not otherwise provided for in this chapter must be licensed by the county board before operation may commence. The license application shall include sets of complete plans, specifications, design data, ultimate land use plan, if applicable, and proposed operating procedures prepared by a registered professional engineer of the state. Where applicable, the applicant shall procure and accompany the application with a proper zoning permit if required by the county zoning ordinance.
  - (c) After receiving an application for an operation, the county board shall refer such application to the environmental services department who shall give his recommendation to the county board concerning whether it should issue or deny the license. If an applicant is denied a license, he shall be notified in writing of the reasons therefor by the county board. A denial shall be without prejudice to the applicant's right to an appearance before the county board or to his right to file a further application after revisions are made to satisfy objections specified as reasons for the dismissal.
  - (d) The county board shall refuse to issue a license for any operation which does not comply with this chapter, agency regulations and the county's solid waste management plan.
  - (e) Closure post-closure contingency fund.
    - (1) Unless otherwise provided by the county board, issuance of any license pursuant to the provisions of this chapter shall be contingent upon the applicant establishing a closure post-closure contingency fund commencing on August 1, 1986, and furnishing to the county a bond in an amount established by county board resolution and naming the county obligee with sufficient sureties duly licensed and authorized to transact business in the state as sureties. The condition of such bond shall be that if the principal fails to comply with any of the requirements or fails to perform any of the acts required of an operation or ceases to operate or abandons the operation, and the county is required to expend any monies or expend any labor or material to restore the operation to a condition in compliance with this chapter, the obligor and the sureties on its bond shall reimburse the county for any and all expenses incurred to remedy failure to the principal to comply with the terms of this chapter, and the obligor and its sureties will indemnify and save the county harmless from all losses, costs and charges that may occur to the county because of any default of the obligor under the terms of his license to operate in compliance to the terms of the ordinances of the county.
    - (2) The closure post-closure contingency fund shall be established and funds collected and held by the landfill owner/operator designating the county as custodian of the fund. The county board will establish by resolution a fee based on compacted cubic yards or tons of waste received or a percentage of the dump fee charged at the landfill, or a combination thereof. The county shall review the amount of the fee established at six-month intervals for the purpose of accumulating a reasonable sum of monies to fulfill the purposes of the fund. Documents establishing the fund shall be submitted to the county for review and approval. Quarterly reports specifying the volumes received at the landfill and amount deposited into the fund shall be made to the environmental services department.
    - (3) In addition, all landfill owners/operators shall establish a fund and collect a county fee per compacted cubic yard of solid waste or its equivalent received or a percentage of the dump fee charged at the landfill, or combination thereof. The fee shall be established by resolution of the county board under authority of Minn. Stats. § 115A.919 or amendments thereto, and shall be for the purposes set forth under Minn. Stats. § 115A.919 and amendments thereto, including, but not limited to, landfill abatement or costs of closure, post-closure care and response actions, or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. To fulfill the requirements of this chapter, all monies shall be submitted to the county treasurer on a quarterly basis, and landfill operators shall submit an annual independent audit of landfill records to the county and provide the county free access to all landfill records in a timely manner.

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- (f) In addition to the bond to be furnished, the licensee shall furnish to the county certificates of insurance issued by insurers duly licensed within the state covering public liability insurance, including general liability, automobile liability, loading and unloading, completed operation liability, bodily liability in an amount of at least \$300,000.00 for injury or death of any one person in any one occurrence and aggregate bodily liability in an amount of at least \$500,000.00 for injuries or death arising out of any one occurrence. Property damage liability shall be furnished in an amount of at least \$100,000.00.
  - (g) Any license granted by the county board under the provisions of this chapter may be suspended at any time for noncompliance with the provisions of this chapter or applicable state laws, county or state regulations, or upon written notification by the environmental services department or by an authorized representative of the agency, that the continued use of the operation may endanger the health, welfare or safety of the public or may cause pollution or impairment of the environment. The notice of suspension may be served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof. A copy thereof shall be provided to the county board. A license may be revoked only after the county board has held a public hearing at which the licensee and other persons wishing to be heard concerning use of the operation shall have the right to be heard. The date of the hearing for license revocation shall be set by the county board and shall not be held earlier than ten calendar days after notice of the hearing was mailed to the licensee. Evidence may be adduced in a manner consistent with the rules of evidence applied in civil cases. A transcript thereof shall be made by tape-recording or other suitable technique. If, pursuant to the hearing, the county board shall determine that the operation has been conducted in violation of this chapter, the county board may revoke the license or continue such suspension in effect until the operator has demonstrated that full compliance with the chapter has been attained and that such compliance will be continued in the foreseeable future.
  - (h) Routine inspection and evaluation of an operation shall be made by the environmental services department at such frequency as to ensure consistent compliance by the operation with the provisions of this chapter. The licensee shall be provided with a written inspection report containing a precise description of any deficiencies, recommendations for the correction and the date when the corrections shall be accomplished. The licensee shall be required to allow free access to authorized representatives of the county, the county board, the agency, or to the authorized representatives of any other governmental agency at any time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this chapter, or any other applicable statute, ordinance, or regulation.
  - (i) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter, or any other applicable law, ordinance, rule or regulation, the provision which establishes the higher standards for the promotion of the public health, safety and general welfare shall prevail.

(Ord. of 1-23-1973, § 2)

### **Sec. 16-11. Storage; containers; transfer stations.**

- (a) The owner, lessee and occupant of any premises, business establishment or industry shall be responsible for the satisfactory storage of all solid waste accumulated at that premises, business establishment or industry. No building, structure, area, or premises shall be constructed or maintained for human occupancy, use or assembly without adequate facilities for sanitary and safe storage, collection, transportation, and disposal of all solid wastes.
- (b) Putrescible waste, including, but not limited to, garbage shall be stored in:
  - (1) Durable, rust-resistant, nonabsorbent, watertight, rodentproof, and easily cleanable containers, with close-fitting, fly-tight covers having adequate handles to facilitate handling; or



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- (2) Other types of containers acceptable to the solid waste collection service, complying with agency regulations, and approved by the environmental services department.

The size and allowable weight of the containers may be determined by the solid waste collection service as approved by the environmental services department.

- (c) Solid waste shall be stored in durable containers or as otherwise provided in this chapter. Where putrescible wastes are stored in combination with nonputrescible wastes, containers for the storage of the mixture shall meet requirements for putrescible waste containers.
- (d) Toxic or hazardous wastes shall be stored in durable, leakproof containers which are labeled with a description of the chemical composition of the substance stored therein. Such wastes shall be stored in a safe location and in compliance with the requirements of agency regulations and this chapter.
- (e) All containers for the storage of solid waste shall be maintained in such a manner as to prevent the creation of a nuisance or unsanitary condition.
- (f) Solid waste objects or materials too large or otherwise unsuitable for storage containers shall be stored in a manner which is pollution-free, nuisance-free, and satisfactory to the environmental services department.
- (g) Solid wastes shall not be stored on public or private property for more than two weeks without the written approval of the environmental services department.
- (h) Transfer stations may be established and licensed annually according to section 16-16 and must meet all requirements listed in this section as well as any deemed necessary by the environmental services department.

(Ord. of 1-23-1973, § 4)

## **Sec. 16-12. Collection and transportation; commercial haulers.**

- (a) *State rule governs.* The collection and transportation of solid waste shall be carried out in accordance with agency rules in addition to the rules provided by this chapter.
- (b) *Required permits and licenses.* A commercial haulers license and either a commercial haulers vehicle permit or a transportation vehicle permit are required for the collection or transportation of solid waste in the county.
- (c) *Fees for permits and licenses.* Fees for licenses and permits shall be set from time to time by resolution of the county board of commissioners.
- (d) *Vehicle and transportation requirements.* Vehicles and containers for solid waste transportation shall be constructed, loaded, transported, and unloaded in a safe, sanitary and nuisance-free manner. Vehicles and containers for solid waste collection and transportation shall be enclosed, covered, leak resistant, durable and of easily cleanable construction.
  - (1) Vehicles and containers shall be cleaned regularly to prevent nuisance, pollution, insect breeding and odors. Vehicles shall be kept in good repair.
  - (2) The container inspection doors shall be kept securely closed except when the vehicle or container is being inspected, cleaned or stored in a clean, empty condition.
  - (3) Waste shall not be allowed to be stored in any collection vehicle for longer than 48 hours.
  - (4) All waste shall be loaded and moved in such a manner that it will not spill or blow from the vehicle or container. All spills shall be picked up immediately by the hauler or solid waste transporter and returned to the vehicle or container, and the area properly cleaned.

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- (5) Solid waste that is smoking, smoldering, or burning shall not be collected.
- (6) The hauler or transporter shall notify the environmental services department and the appropriate law enforcement agency if a load or partial load of waste is dumped or unloaded except where allowed by this ordinance. The area shall be cleaned as directed by the environmental services department.
- (e) *Exclusions.* A vehicle transporting solid waste from a single household, or a vehicle hauling solid waste from outside the county to a place outside the county is excluded from this section.
- (f) *Commercial haulers license and commercial haulers vehicle permits.* All commercial haulers collecting and transporting solid waste from residential, business, institutional or industrial generators shall obtain an annual license issued by the environmental services department. Each vehicle used by commercial haulers to collect or transport solid waste shall be operated only after a commercial haulers vehicle permit has been issued by the environmental services department. Vehicles transporting only demolition debris are excluded from this section, unless the materials are being hauled to a mixed municipal solid waste disposal facility or transfer station in the county. Application for a commercial haulers license and commercial haulers vehicle permit shall be submitted to the environmental services department.
- (1) Persons intending to engage in the business of being a commercial hauler in the county must file an application with the environmental services department, using forms provided by the environmental services department. The initial application and subsequent annual renewals shall contain the following information:
- a. The name and address of the business or corporation and its owner.
  - b. A description of each vehicle used for waste collection and transportation, including the vehicle identification number, vehicle license number, make, model, the capacity of the vehicle body, and the capacity and number of roll-off containers.
  - c. The date of the last safety inspection of each vehicle by a state department of transportation certified inspector.
  - d. The location and address of the place where vehicles and equipment are stored.
  - e. A current copy of the certificate of insurance indicating proper insurance coverage for the period of the license, including the name of the carrier, its agent policy number, and effective dates.
  - f. The type and number of locations and jurisdictions serviced and the estimated weekly weight or volume of waste collected.
  - g. A statement by the applicant that shows:
    1. Utilization of county designated routes.
    2. That vehicle operators possess proper state driver's licenses.
  - h. A statement by the applicant that all waste generated outside of the county will be reported to solid waste disposal facilities in the county and agents of the county, as required by the environmental services department.
  - i. A statement by the applicant that customers are charged on the basis of weight or volume and that the applicant agrees to provide proof that charges are based on weight or volume as required by the environmental services department.
  - j. Other information the environmental services department may reasonably require including the applicant's signature and appropriate fees for the license and permit.
- (2) All collectors of mixed municipal solid waste must charge for collection on the basis of weight or volume of waste collected. The charges must increase with the volume or weight of waste collected.

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- (3) All collectors of mixed municipal solid waste shall not impose a greater charge for refuse collection on residents or customers who recycle than on residents or customers who do not recycle.
  - (4) Each commercial hauler shall ensure that vehicles are inspected annually by an inspector currently certified by the state department of transportation. Commercial haulers vehicles shall not be permitted or operated unless a current safety sticker is affixed to the vehicle by an inspector certified by the state department of transportation. Each vehicle, its body or roll-off may be inspected by the environmental services department at any time to determine compliance with this chapter.
  - (5) The applicant shall display required licensed vehicle identification provided by the environmental services department on a location on each vehicle as specified by the environmental services department. In addition, the applicant shall display name, address, and telephone number on each side of each vehicle. Letters and numbers shall be at least two inches high.
  - (6) No licensee or contractor operating under contract or agreement with the licensee shall commence operations until all required insurance and performance bonds are obtained. The type and level of insurance and amount of performance bonds required for licensing will be set from time to time by the county board of commissioners.
- (g) *Transportation vehicle permits.* Any commercial hauler that does not collect solid waste under the provisions of this section but does transport solid waste using roadways in the county must annually obtain a commercial hauler's license and a transportation vehicle permit for each vehicle used. A commercial hauler that is properly licensed and operating one or more vehicles that are each properly permitted under subsection (d) of this section is excluded from this requirement. Vehicles transporting only demolition debris are excluded from this section, unless the materials are being hauled to municipal solid waste disposal facility, processing, or transfer station in the county. Application for a transportation vehicle permit shall be made to the environmental services department.
- (1) Application for a transportation vehicle permit shall be made to the environmental services department on forms provided by the environmental services department. The initial application and subsequent annual renewals shall contain the following information:
    - a. The name and address of the business or corporation and its owner.
    - b. A description of each vehicle used for transporting waste, including the vehicle identification number, license plate number, make, model, the capacity of the vehicle body, and the capacity and number of roll-off containers.
    - c. The date of the last safety inspection of each vehicle by a state department of transportation certified inspector.
    - d. The location and address of the place where vehicles and equipment are stored.
    - e. A current copy of the certificate of insurance indicating proper insurance coverage for the period of the license, including the name of the carrier, its agent policy number, and effective dates.
    - f. The type and number of locations and jurisdictions serviced and the estimated weekly weight or volume of waste collected.
    - g. A statement by the applicant that shows:
      1. Utilization of county designated routes.
      2. That vehicle operators possess proper state driver's licenses.
    - h. A statement by the applicant that all waste generated outside of the county and disposed of in the county will be reported to solid waste disposal facilities in the county and agents of the county as required by the environmental services department.

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- i. Other information the environmental services department may reasonably require including the applicant's signature and appropriate fees for the license and permit.
  - (2) Each commercial hauler shall ensure that vehicles are inspected annually by an inspector currently certified by the state department of transportation. Commercial haulers vehicles shall not be permitted or operated unless a current safety sticker is affixed to the vehicle by an inspector certified by the state department of transportation. Each vehicle, its body or roll-off may be inspected by the environmental services department at any time to determine compliance with this chapter.
  - (3) The permittee shall display permitted vehicle identification provided by the environmental services department on a location on each vehicle as specified by the environmental services department. In addition, the permittee shall display name, address, and telephone number on each side of each vehicle. Letters and numbers shall be at least two inches high.
  - (4) No licensee or contractor operating under contract or agreement with the licensee shall commence operations until all required insurance and performance bonds are obtained. The type and level of insurance and amount of performance bonds required for licensing will be set from time to time by the county board of commissioners.

(Ord. of 1-23-1973, § 5)

### **Sec. 16-13. Sanitary landfill or demolition landfill.**

A sanitary landfill or demolition landfill shall comply with the following provisions:

- (1) No person shall establish, operate or maintain a sanitary landfill or demolition landfill without first obtaining a permit from the agency and a license from the county board. Application for a county license shall include but not be limited to: schedule of daily operation; schedule of scattered waste cleanup on highway right-of-way along designated routes leading to the solid waste facility; and schedule of charges to be levied at the solid waste facility. Demolition landfills shall establish and charge disposal fees for all users in a fair and equitable manner. Where the location of the proposed operation is consistent with the county solid waste management plan, the county board shall issue a license for the operation of a sanitary landfill or demolition landfill upon its approval of the construction plans, operational procedures, and specifications describing the sanitary landfill proposed to be constructed. A minimum of three sets of the plans and specifications shall be prepared by a registered professional engineer of the state and the plans shall be folded to 8½ by 11 inches in size. The application shall include the following information:
  - a. A current map or aerial photograph of the area showing land use and zoning within one-fourth-mile of the operation. The map or aerial photograph shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads, and other applicable details and shall indicate the general topography with contours and drainage patterns. Wells shall be identified on the maps or aerial photograph, U.S.G.S. data shall be indicated, and a north arrow drawn. A location insert map shall be included.
  - b. A plot plan including legal description of the site and immediate adjacent area showing dimensions, location of soil borings and present and planned pertinent features, including, but not limited to, roads, fencing, and cover stockpiles. The plan of development, including any excavation, trenching, and fill areas shall be shown progressively with time. Cross sections shall be included on the plot plan or on separate sheets showing progressively with time the original and proposed elevation of excavation, trenching and fill areas. The scale of the plot plan shall not be greater than 300 feet per inch.

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- c. An ultimate land use plan, including intermediate stages, describing all proposed future uses of the land upon which the operation is located. The scale of the ultimate land use plan shall not be greater than 200 feet per inch.
  - d. A report indicating:
    - 1. Population and areas expected to be served by the proposed operation.
    - 2. Anticipated type, quantity and source of material to be disposed of at the operation.
    - 3. Geological formations and groundwater elevations to a depth of at least ten feet below proposed excavation and lowest elevation of the operation, including the high water table. Such data shall be obtained by soil borings or other means approved by the environmental services department.
    - 4. Source and characteristics of cover material and method of protecting cover material for winter operation.
    - 5. The type and amount of equipment to be provided at the operation for excavating, earth moving, spreading, compacting and other needs.
    - 6. Area of operation in acres.
    - 7. Owner of the operation.
    - 8. Persons responsible for actual operation and maintenance of the operation and intended operating procedures.
    - 9. Provision for training and periodic retraining of operation and maintenance personnel.
    - 10. Information relating to M. P. C. A. §§ 1, 2, 4, SW 6.
    - 11. Provisions for termination of operation.
  - e. Evidence that disposal of toxic and hazardous wastes will be conducted in a manner which will prevent the creation of land or water pollution and will safeguard the public health, including complete construction plans and specifications, design data and proposed operating procedures for the area in which disposal of the toxic and hazardous wastes shall take place.
  - f. Written proof that the applicable local government has been given at least 30 days, written notification of the pendency of or the application for a license.
  - g. A certificate from the county zoning administrator that the use proposed is in accordance with the established county zoning ordinance.
- (2) The fill and trench areas of sanitary landfill operations are prohibited within:
- a. Shoreland.
  - b. One thousand feet, at the time of commencement of the operation, of the nearest edge of the right-of-way of any state, federal or interstate highway or the boundary of a public park or of an occupied dwelling. Notwithstanding such distance requirements, an operation shall be considered to comply with this provision if it is screened by natural objects, plantings, fences or other appropriate means so that it is not readily visible from such a highway or park.
  - c. One mile of a municipal well or one mile of a municipal water intake.
- (3) A sanitary landfill operation shall be constructed, operated and maintained in accordance with the following requirements:

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- a. Records shall be kept and submitted to the environmental services department. The type of information and frequency of reporting to be determined by the environmental services department.
  - b. Sanitary facilities adequate for employees shall be available at the site.
  - c. Shelter facilities adequate for employees and maintenance and storage for equipment shall be available at the site.
  - d. Litter control devices shall be provided at the site.
  - e. Electrical service adequate for operations and repairs shall be provided at the site.
  - f. Firefighting facilities adequate to ensure the safety of employees and adjacent property owners shall be provided.
  - g. Emergency first aid equipment adequate to provide treatment for persons injured in accidents while at the site shall be provided at the site.
  - h. A potable water supply adequate for employees shall be provided at the site.
  - i. Communication facilities adequate for emergency purposes shall be provided at the site.
  - j. The operation shall be fenced and a gate shall be provided at its entrance which is kept locked when an attendant is not on duty.
  - k. An all-weather haul road to the unloading area shall be provided at the site.
  - l. Equipment sufficient for spreading, compacting and covering operations, including sufficient reserve equipment or arrangements to immediately provide cover during periods of breakdown, shall be provided at the site.
  - m. A sign shall be provided at each entrance of the operation, stating the name of the licensee, the schedule of days and hours upon which the operation is open to the public, the procedures for use of the operation, the agency permit number, and the penalty for violation of this chapter.
  - n. A ground water and surface water monitoring system acceptable to the environmental services department and the agency shall be provided at the expense of the licensee and a report submitted to the environmental services department and the agency on a form prescribed by the agency on a quarterly basis or such more frequent basis as the agency may prescribe.
  - o. Visual screening of the sanitary landfill operation, as approved by the environmental services department, shall be provided by use of natural objects, trees, plants, seeded soil berms, fences, or other suitable means.
  - p. A suitable disposal area shall be provided for individuals who wish to transport and dispose of their own solid waste.
  - q. No person shall operate a sanitary landfill at hours other than those specified by the county board in the licensing contract.
  - r. No person shall cause, suffer, allow or permit the open burning of solid waste.
  - s. Solid waste shall be deposited in such a manner as to prevent the pollution of groundwater or surface water.
  - t. Dumpings of solid waste shall be confined to as small an area as practicable and surrounded with appropriate facilities to confine possible wind-blown material within the area. At the conclusion of each day of operation, all wind-blown material resulting from the operation shall be collected and returned to the area by the owner or operator.

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- u. Solid waste shall be compacted as densely as practicable and covered after each day of operation, or as specified by the agency, with a compacted layer of at least six inches of suitable cover.
  - v. Surface water drainage shall be diverted around the landfill operating area.
  - w. The disposal operation and the adjacent property line shall be separated by a distance of at least 20 feet.
  - x. Flies, rodents, and other insects or vermin shall be effectively controlled.
  - y. Salvaging is prohibited on the operating area of a sanitary landfill site. Where salvaging is conducted on a sanitary landfill site, it shall be conducted in a manner acceptable to the environmental services department.
  - z. An attendant shall be on duty at all times while the sanitary landfill is open for public use.
  - aa. Within one month after final termination of a sanitary landfill operation, or a major part thereof, the area upon which disposal was so terminated shall be covered with at least two feet of compacted earth material and adequately graded to allow surface runoff.
  - bb. The finished surface of the filled area shall be covered with adequate top soil and seeded with native grasses or other suitable vegetation immediately upon completion, or immediately in the spring on areas terminated during winter conditions. If necessary, seeded slopes shall be covered with straw or similar material to prevent erosion.
  - cc. Prior to completion of a sanitary landfill operation, the agency and the environmental services department shall be notified in order that an investigation of the operation may be conducted by each before earth moving equipment is removed from the property.
  - dd. Toxic and hazardous wastes shall be disposed of in a sanitary landfill site in accordance with the following procedures or as otherwise designated by the agency:
    1. A separate area shall be designated for the disposal of these materials. A permanent sign shall be posted in the area, indicating its designated use and precautions which shall be taken during disposal.
    2. Disposal shall take place at least ten feet above the groundwater level and at least ten feet above bedrock formations. The toxic and hazardous waste disposal areas to be used shall be sealed in a manner acceptable to the environmental services department prior to disposal.
    3. No toxic and hazardous waste materials shall be accepted for disposal or disposed of in a sanitary landfill having a license under this chapter unless the material is identified to the satisfaction of the environmental services department.
    4. Where considered possible by the environmental services department, toxic and hazardous waste materials shall be neutralized or otherwise made harmless prior to disposal.
    5. Upon disposal of toxic and hazardous wastes, containers and any materials washed from the vehicles transporting the materials shall be immediately covered with at least 18 inches of earth.
    6. Where necessary to prevent land pollution, water pollution, a public nuisance or threat to public health, welfare or safety, the environmental services department may impose conditions for the disposal of toxic and hazardous wastes within a disposal facility in addition to those specifically established in this chapter.

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- (4) Nonputrescible materials such as brick, stone, sand and similar materials may be disposed of as a base in surface waters at sanitary landfill sites if such disposition can be accomplished without creating a potential for water pollution or land pollution or a threat to the public health, welfare, or safety. Any such proposed disposition must be detailed in the permit application and approved by the environmental services department and the agency.
  - (5) Reports describing the types and quantities of waste, including, but not limited to, toxic or hazardous wastes, which are disposed of at this site shall be submitted to the agency and to the environmental services department each month, together with other information on the operation of the sanitary landfill.
  - (6) A sanitary landfill shall be terminated so as to prevent the creation of air, water or land pollution, a public nuisance, or a threat to the public health, welfare, or safety. A sanitary landfill shall be construed to be adequately terminated until a description of the general type and specific location of solid waste materials disposed of on the site, the number, type and depth of lifts, the original and final surface elevation profiles and other pertinent information have been approved by the environmental services department and registered with the county register of deeds, and until the manner of termination of the site has been approved by the environmental services department. The notice so filed shall also include a description of the type and location of toxic and hazardous waste materials disposed of on the site, the number of gallons of each kind of such material so disposed, original and final surface elevations and profiles, construction details concerning the disposal pit, pit lining and pit walls, and other pertinent information, as approved by the environmental services department.

(Ord. of 1-23-1973, § 6)

### **Sec. 16-14. Incineration.**

All new and existing incinerators having a capacity greater than 6,000 pounds per hour and all incinerators used for the incineration of toxic and hazardous wastes shall be designed, operated, and maintained in accordance with this chapter and agency regulations.

- (1) It is unlawful for any person to construct, establish, maintain, or operate an incinerator without first obtaining a license from the county board for each incinerator so constructed, maintained or operated. The following information shall be submitted as a part of the application:
  - a. A minimum of three sets of construction plans and specifications, folded to 8½ by 11 inches in size, prepared by a registered engineer of the state to serve as a basis for construction of facilities adequate to comply with this chapter and agency regulations. The construction plans and specifications shall include a plot plan showing land use, zoning, and the location type and height of all buildings within 500 feet of the proposed installation.
  - b. An engineering report including expected performance data, the present and future population and area to be served by the incinerator, and the characteristics, quantities and sources of solid waste to be incinerated.
  - c. Plans for the disposal of incinerator residue, and emergency disposal of solid waste in the event of major incinerator plant breakdown.
  - d. Owner of the incinerator.
  - e. Persons responsible for actual operation and maintenance of the plant, intended operating procedures, and provision proposed to be made for periodic training and retraining of operation and maintenance personnel.
  - f. Such additional information as may be requested by the environmental services department.

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- g. Written proof that the applicable local government has been given at least 30 days' notification of the pendency of the application for a license.
- (2) Incinerators shall be constructed, operated and maintained in accordance with recognized engineering principles and the following requirements:
- a. The incinerator plant shall be so situated, equipped, operated and maintained as to minimize interference with other activities in the area. All incoming and outgoing traffic shall be controlled by the license in such a manner as to provide orderly and safe ingress and egress.
  - b. Shelter and sanitary facilities adequate for plant personnel shall be provided at the site.
  - c. A permanent sign shall be posted at the entrance of the operation, identifying the operation and showing its agency permit number and indicating the hours and days when the operation is open for public use. Public access to the operation shall be limited to those times when authorized personnel are on duty.
  - d. All incoming solid waste to be incinerated at the operation shall be confined to the unloading area. Adequate holding bin capacity shall be provided to accommodate all incoming solid waste.
  - e. Facilities shall be designed to provide for dust control in the unloading and charging areas, and dust control measures shall be employed throughout the operation to prevent avoidable amounts of particulate from becoming airborne.
  - f. The incinerator operation shall have weighing facilities available. Permanent records shall be maintained indicating the total weight of material incinerated, the total quantity or resulting residue, the total hours of incinerator operation, and the means employed for disposal of residue. These records shall be submitted monthly to the environmental services department and the agency in a form prescribed by the agency.
  - g. Firefighting equipment, meeting the standards of Underwriters Laboratory, Inc., or such other nationally recognized safety standards as the environmental services department shall approve, shall be available in the storage and charging areas and elsewhere as needed.
  - h. Arrangements shall be made with the local fire protection agency to provide firefighting forces in an emergency.
  - i. Communication facilities adequate for emergency purposes shall be provided.
  - j. Equipment shall be provided in the storage and charging areas and elsewhere as necessary to allow cleaning after each day of operation and to maintain the operation in a sanitary condition.
  - k. All equipment throughout the operation, including but not limited to, charging openings shall be provided with safety equipment.
  - l. A continuously recording pyrometer shall be provided in order to maintain continuous records of temperature in the combustion chambers. Such records shall be submitted to the environmental services department on a monthly basis in a form prescribed by the agency.
  - m. All residue removed from the incinerator operation shall be promptly disposed of in a sanitary landfill. Residue containing toxic or hazardous wastes shall be analyzed to determine its chemical composition, identified to the satisfaction of the environmental services department and disposed of in a toxic pit within the sanitary landfill or as otherwise designated by the agency.
  - n. Performance tests of the plant may be required by the environmental services department. A report covering the results of the performance tests in such cases shall be prepared by the design engineer of the project and submitted to the environmental services department with a copy of all supporting data.

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- o. Upon completion of the plant and prior to initial operation, the environmental services department and the agency shall be notified to allow their personnel to inspect the plant both prior to and during the performance tests.

(Ord. of 1-23-1973, § 7)

### **Sec. 16-15. License fees.**

- (a) *Fees for solid waste collection and transportation.* Fees for licenses and permits shall be set from time to time by resolution of the county board of commissioners. License fees shall cover the cost to the county for processing the license applications and administering and enforcing this chapter relating to licenses and permits. These fees shall be paid annually by January 1 as a condition of license renewal. Nonpayment of the annual fees shall be grounds for denial of license or permit renewal.
- (b) *Fees for solid waste management facilities.* Fees for licenses and permits shall be set from time to time by resolution of the county board of commissioners. Approval of an application to the county board for a license for a solid waste management facility shall be contingent upon the payment to the county of a license fee in the amount specified by resolution. Such license fees shall cover the cost to the county for processing the license applications and administering and enforcing this chapter with respect to solid waste management facility licensees. The fees prescribed shall be paid by a licensed applicant with respect to each facility maintained. Fees shall be paid to the county prior to issuance of licenses.

(Ord. of 1-23-1973, § 8)

### **Sec. 16-16. Rates and charges.**

- (a) *Owners, lessees and occupants of property.* Owners, lessees, and occupants of property situated within the county shall pay for solid waste management services to their properties pursuant to the schedule submitted by the contractor as set forth in section 16-12 to be approved by the county board.
- (b) *Users of facilities.* Users of solid waste management facilities approved by the county and operated by and through its contractor, shall pay charges for the use of the facilities according to the fee schedule approved by the county board and registered in the office of the county treasurer.

(Ord. of 1-23-1973, § 9)

### **Sec. 16-17. Service charge.**

- (a) *Purpose and authority.* This section is enacted pursuant to Minn. Stats. § 400.08 which grants Blue Earth County the authority to impose reasonable charges for solid waste management and disposal. The purpose of this section is to establish a method of collection for such charges.
- (b) *Method of billing and collecting service charge.* The charges will be billed and collected as a fee on the applicable Blue Earth County tax statements as determined by the rate schedule.
- (c) *Unpaid charges.* On or before October 15 in each year, the county board shall certify to the county auditor all unpaid outstanding charges and a description of the lands against which the charges arose. It shall be the duty of the county auditor, upon order of the county board, to extend the assessments with interest rate provided for in Minn. Stats. § 279.03, subd. 1, upon the tax rolls of the county for the taxes of the year in which the assessment is filed. For each year ending October 15, the assessment with interest shall be carried into the tax, becoming due and payable in January of the following year and shall be enforced and collected of real property taxes in accordance with the provisions of the laws of the state. The charges, if not paid,

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shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state.

- (d) *Rates and charges.* The county board, by resolution, may establish or revise the rate schedule for solid waste management services. All rates and charges shall be uniform in their application to use and service of the same character and quantity. A copy of the current rate schedule shall be kept on file in the office of the county administrator. If no new rate schedule for solid waste management services is adopted in any year, the rate schedule for the previous year shall remain in effect.

In establishing or revising the rate schedule, the board may take into account all factors relevant to solid waste management and disposal. Such factors include, but are not limited to, the character, kind and quality of service and of solid waste; the method of disposition; the number of people served at each place of collection; and all other factors that enter into the cost of the providing service, including but not limited to public education, recycling programs, solid waste management facilities operating, and debt service cost.

- (e) *Appeals.* Any property owner who believes that the service charge imposed upon his property is incorrect may appeal the charge. Any appeal form may be obtained at the office of the environmental services and shall be filed within 30 days of mailing the service statement by the county. The environmental services director shall, within 30 days of receipt of the appeal, review the appeal and notify the appellant by U.S. mail whether an adjustment is due and how much or whether the appeal is denied.

(Ord. No. 310, § I, 7-21-1990)

### **Sec. 16-18. Service area.**

This section is enacted pursuant to Minn. Stats. § 400.08, which grants Blue Earth County the authority to establish and determine the boundaries of solid waste management service areas in the county.

There shall be separate service areas or zones established within Blue Earth County as determined by the level of solid waste management services provided to each service area or zone. The county board shall establish, by resolution, the boundaries of each such solid waste management service area and shall set the fees for each such service area after taking into account the character, kind, and quality of service and of the solid waste, the method of disposition, the number of people served at each place of collection, and all the factors that enter into the cost of the service, including but not limited to, depreciation and payment of principle and interest on money borrowed by the county for the acquisition or betterment of facilities.

(Ord. No. 310, § II, 7-21-1990)

## **Chapter 18 STREETS, ROADS, HIGHWAYS AND OTHER PUBLIC PLACES<sup>18</sup>**

### **ARTICLE I. IN GENERAL**

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<sup>18</sup>Cross reference(s)—Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, etc., any street or public way in the county saved from repeal, § 1-9(5); any ordinance levying or imposing taxes saved from repeal, § 1-9(7); environment, ch. 6; floods, ch. 8; mass gatherings, ch. 10; parks and recreation, ch. 12; subdivisions, ch. 20; street design standards for subdivisions, § 20-193; street construction specifications, § 20-194; required improvements to alleys in subdivisions, § 20-196; dedication of street, public utility and environmental corridor easements, § 20-206; utilities, ch. 22; zoning, ch. 24.

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**Secs. 18-1—18-30. Reserved.**

***ARTICLE II. RURAL ADDRESSING<sup>19</sup>***

***DIVISION 1. GENERALLY***

**Sec. 18-31. Purpose, scope and statutory authorization.**

The purpose of this article is to provide for the establishment of an official plan for a coordinated system of road numbers or names and house or property numbers in the unincorporated areas of the county, and to provide for its administration. This article has been designed to be compatible with the 911 emergency telephone system established by Minn. Stats. ch. 403. This article is hereby adopted pursuant to authority contained in Minn. Stats. ch. 394, commonly known as the county planning and zoning enabling legislation.

(Ord. No. 141, § 1, 4-2-1999)

**Sec. 18-32. Policies.**

It is hereby the policy of the board of commissioners that:

- (1) This article shall be used for the naming and numbering of all roads and structures within the unincorporated areas of the county.
- (2) All persons and other legal entities constructing new structures or locating or relocating mobile homes in unincorporated areas of the county shall obtain an address notification form or serial number, duly issued by the office of the county zoning administrator, hereafter referred to as the "zoning administrator."
- (3) No utility company operating in the county shall furnish its utility services to any new structure or manufactured home, including a stick-built residence or manufactured home that is moved from one location to another in an unincorporated area, until it has been issued a valid address by the zoning administrator.
- (4) The county does not require that road signs and structure address numbers be displayed. If, however, any township or other governmental entity chooses to erect road naming or numbering signs, the signs shall comply with the design and placement specifications contained in this article.

(Ord. No. 141, § 1, 4-2-1999)

**Sec. 18-33. Title of article.**

As provided by the state statutes, the board of commissioners hereby ordains the Blue Earth County Rural Addressing Ordinance. When referred to in this article, it shall be known as this article.

(Ord. No. 141, § 2, 4-2-1999)

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<sup>19</sup>State law reference(s)—911 emergency telephone services, Minn. Stats. ch. 403.

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**Sec. 18-34. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*County engineer* means the registered professional engineer employed by the county, unless otherwise stated.

*Emergency services agency, public or private,* means any agency providing police, fire, rescue or emergency medical services; whose service area boundaries are established by the state statutes or the commissioner of public safety, and which is dispatched through the City of Mankato/Blue Earth County Joint Services Dispatch Center.

*Emergency service area or zone (ESN)* means the area included within the boundaries of a specified area served by a public or private emergency services agency.

*Pedestrian way* means a public right-of-way across or within a block to be used by pedestrians.

*Planning department* means the organization of the planning commission and staff of the land use division of the county environmental services.

*Right-of-way* means the land covered by a public road or other land dedicated for public use or for certain private use such as land over which a power line passes.

*Subdivider* means any person proceeding under this article to effect a subdivision of land for themselves or for another.

*Subdivision* means a platted development of small lots, outlots and streets approved by the board of commissioners and recorded in the county land records office, which may or may not be based on a generalized base of grid pattern street systems.

*Utilities* means all utility services providers, whether the providers are government-owned facilities or furnished by private utility companies.

(Ord. No. 141, § 3, 4-2-1999)

Cross reference(s)—Definitions generally, § 1-2.

**Secs. 18-35—18-60. Reserved.**

*DIVISION 2. ADMINISTRATION AND ENFORCEMENT<sup>20</sup>*

**Sec. 18-61. Administration.**

This article shall be administered by the board of commissioners through the planning commission appointed by the board of commissioners. The zoning administrator and county engineer shall provide technical assistance to the planning commission. The zoning administrator shall be responsible for the administration of this article.

(Ord. No. 141, § 4, 4-2-1999)

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<sup>20</sup>Cross reference(s)—Administration, ch. 2.

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### **Sec. 18-62. Official map.**

- (a) The board of commissioners shall adopt an official road naming and numbering map which documents the assigned names or numbers for all roads within the unincorporated area of the county.
- (b) Such map shall constitute the official plan of road naming and numbering. The map may be divided into townships, subdivisions or other units, each separately identified as a portion of the official map.

(Ord. No. 141, § 4, 4-2-1999)

### **Sec. 18-63. Compliance with article provisions.**

- (a) The state plane coordinates, the county datum, the based rural addressing ordinance (hereafter referred to as "this article") shall be used for the naming and numbering of all roads and structures within the unincorporated areas of the county.
- (b) All persons and other legal entities constructing new structures, or locating or relocating mobile homes in unincorporated areas of the county, shall obtain an address notification form or serial number, duly issued by the office of the county zoning administrator. Coordinates shall be verified and addresses issued by the zoning administrator as part of the construction permit issuance process when application is made to locate a new residence or other commercial venture within the county.
- (c) No utility company operating in the county, shall furnish its utility services to any new structure or manufactured home, including a stick-built residence or manufactured home that is moved from one location to another in an unincorporated area, until it has been issued a valid address by the zoning administrator.
- (d) When a new subdivision plat is recorded, or whenever a new road is established by other means, it shall be the responsibility of the subdivider or individual petitioning to establish the road to provide a sign which conforms to the county design and placement standards for street signs contained in section 7 of the appendix on file and available for inspection in the county offices. It shall be the duty of the subdivider or proposer to place signs at such intersections and other locations as may be required by section 20-199, pertaining to signs and traffic control devices, and as the board of commissioners deems necessary.
- (e) If any township or other governmental entity chooses to erect road naming or numbering signs, the signs shall comply with the design and placement specifications contained in section 7 of the appendix on file and available in the county offices. If a township, or subdivision is signed, the entire township or subdivision must have road signs installed.

(Ord. No. 141, § 4, 4-2-1999)

Editor's note(s)—The appendix referred to in this section as being on file and available for inspection in the county offices is the appendix to the ordinance from which this chapter is derived.

### **Sec. 18-64. Existing street names.**

Existing subdivisions with interior roadways, names of which are recorded on the original subdivision plat in the county land record office, are accepted as is unless changed by resolution of the board of commissioners.

(Ord. No. 141, § 4, 4-2-1999)

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**Sec. 18-65. Fees.**

Fees to cover items addressed in this article may be established from time to time by resolution of the board of commissioners.

(Ord. No. 141, § 4, 4-2-1999)

**Secs. 18-66—18-90. Reserved.**

*DIVISION 3. DETERMINATION, ASSIGNMENT AND RECORDING OF NUMBERS OR NAMES OF ROADS AND STRUCTURE ADDRESSES<sup>21</sup>*

**Sec. 18-91. Assignment of rural addresses.**

Road names and addresses for existing roads and structures in the county will be provided. Future addresses shall be applied for and assigned pursuant to the following process:

- (1) Applicants shall request the address application and notification form from the zoning administrator. Application may be made via telephone or in writing. The zoning administrator shall furnish the applicant with sufficient copies of the address notification form to present to pertinent utility companies and the United States Postal Service. Addresses shall typically be issued concurrent with issuance of construction permits after site inspection and verification of structure coordinates.
- (2) When a request is made for an address, the legal description or tax parcel identification number of the property shall be furnished by the property owner to enable staff to verify the location of the structure or property requiring the address.
- (3) As soon as is practically possible after request for an address has been made and all required information provided by the applicant, the address shall be determined and assigned, and a serial number assigned to the form.

(Ord. No. 141, § 5, 4-2-1999)

**Sec. 18-92. State plane coordinate, county datum based road numbering criteria; generally.**

- (a) The road numbering system shall be implemented as per the example shown as Exhibit 0141.0701, in section 7 of the appendix on file and available for inspection in the county offices.
- (b) All roadways that run primarily east/west shall be identified as streets and numbered by rounding off the northerly state plane coordinate to a three-digit number. Pre-directional and post-directional (N, S, E, W) shall not be used for any road names in the county.
- (c) All roadways that run primarily north/south shall be identified as "avenues" and numbered by rounding off the easterly state plane coordinate to a three-digit number.

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<sup>21</sup>Editor's note(s)—The appendix referred to in this division as being on file and available for inspection in the county offices is the appendix to the ordinance from which this chapter is derived.

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- (d) Dead-end roads will be designated as "lanes" and numbered according to their predominant direction and rounded state plane coordinate.
  - (e) All roads that loop back on themselves shall be designated as "loop" or "circle."
  - (f) All roadways that run diagonally shall be designated as "road."

(Ord. No. 141, § 5, 4-2-1999)

### **Sec. 18-93. Road naming and numbering criteria within subdivisions.**

- (a) *Generally.* All roads within subdivisions which can be conveniently named and/or numbered in compliance with the above referenced state plane coordinates, the county datum, shall be so named.
- (b) *Alternate road names permitted within subdivisions.* Because circular, cul-de-sac, loop and curvilinear street patterns are typically utilized in subdivision design, and the state plane coordinate, the county datum based road numbering system may be difficult to apply in subdivisions due to density and lack of uniformity in street patterns, a system of hierarchal order will be implemented to establish a consistent nomenclature in street types which will promote an easier process of street labeling and identification. All street terminologies will be in accordance with the hierarchical order name associated with the dimensional site and traffic use (present or anticipated). Use of this descending order of naming streets will provide a consistent method and will provide public safety officials a spontaneous and immediate reference to anticipate traffic flows and street configuration encounters. Those streets which through use definition are of one type, but do not meet the corresponding right-of-way requirement, will be considered at a reduced use. The hierarchy for this is from greater to lesser: The graphic illustrating this hierarchy is specified as Exhibit 0141.0707 in section 7 of the appendix on file and available for inspection in the county offices.
- (c) *Enumeration of alternate names.* Road names permitted as an alternative to coordinate based numbering system are listed as follows:
  - (1) *Arterial streets:* Right-of-way width greater than 80 feet will be termed parkway, boulevard, road, roadway. (Streets with this use will usually be state, county or township roads and will not be within a county subdivision.)
  - (2) *Collector streets:* Right-of-way width greater than 66 feet of right-of-way will be termed drive or way (excludes cul-de-sacs).
  - (3) *Minor streets:* Right-of-way width of 66 feet or less will be termed street, or assigned no nomenclature at all (excluding cul-de-sac).
  - (4) *Collector cul-de-sac:* Includes cul-de-sac, dead-ends, loop, circular (greater than 400 feet) will be termed lane, trail, shire, hollow, heights, view, ravine, valley, hills, etc.
  - (5) *Minor cul-de-sac:* Includes cul-de-sac, dead-ends, and loops (with a length not exceeding 400 feet) will be termed court, circle or place.
  - (6) *Dedicated pedestrian ways or easements:* If named, shall be called path or walk.
- (d) *Suggested road name themes.* In larger subdivisions a name theme is suggested (i.e., trees, birds, states, flowers, presidents, etc.)
- (e) *Exceptions.* Exceptions or additions to the above-mentioned terminologies will be at the discretion of the board of commissioners.

(Ord. No. 141, § 5, 4-2-1999)



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**Sec. 18-94. Road name establishment; additions or modifications.**

- (a) Road names, other than as set forth in the state plane coordinates, the county datum based system, section 18-92, shall be instituted through at least one public hearing held by the planning commission. Final approval shall be granted by the board of commissioners.
- (b) Road naming shall be established only after public hearing or through recording of subdivision maps.
- (c) Whenever it is necessary to hold public hearings for purposes of creating alternate road names, or to rename existing roadways, hearings pursuant to requirements of Minn. Stats. ch. 394, shall be held. The hearings may be requested by any person, the board of commissioners or the planning commission.

(Ord. No. 141, § 5, 4-2-1999)

**Sec. 18-95. Prohibited road naming.**

- (a) Street names may not be duplicated with that of any presently represented streets, avenues, roads, drives, circles, courts, etc., in the county or any of the communities or subdivisions within its generic boundaries.
- (b) Duplication of names shall not be permitted unless the proposed name is in general alignment of or a continuation of the existing named road.
- (c) Different names may not be approved for a proposed road in any geographic area of the county if that road is in effect a continuation of, projection of, or could be related in any way to the alignment of an existing named road.
- (d) Names with similar spellings, pronunciations or meanings may be construed as being duplications.
- (e) Street names shall not exceed 16 characters in length to facilitate signing, including street nomenclature abbreviation.

(Ord. No. 141, § 5, 4-2-1999)

**Sec. 18-96. Road name records.**

The zoning administrator shall keep a record of the names and/or numbers of all roads in the county. When any new road is proposed by submittal of subdivision plat, or otherwise proposed by any person, governmental body or department, the proposal shall be referred to staff to be checked for duplication, spelling and conformity with this article.

(Ord. No. 141, § 5, 4-2-1999)

**Sec. 18-97. Structure numbering system; generally.**

- (a) *Numbering criteria.* All structure numbers shall be determined and assigned based on state plane coordinates, the county datum, unless otherwise approved by the board of commissioners. All house numbers must meet design and placement specifications as set forth in Exhibits 0141.0705 and 0706 in section 7 of the appendix on file and available for inspection in the county offices.
- (b) *Determination of structure number coordinates.* The coordinates for the structure number shall be taken from the point where the road right-of-way and driveway centerline intersect.
  - (1) Houses on a north-south road will be numbered by rounding off their northerly coordinates to the left-most five digits.

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- (2) Houses on an east-west road will be numbered by rounding off their easterly coordinates to the left-most five digits.
  - (3) Houses on named roads will be numbered using the predominate direction's coordinates.
  - (4) Houses on the northerly and westerly sides of the road get even numbers.
  - (5) Houses on the southerly and easterly sides of the road get odd numbers.
  - (6) The first three digits of a house number shall be between the numbers of the streets or avenues that the house falls between.
  - (7) If two or more houses share a driveway, they will be given house numbers 20 feet apart in relation to their positions.

(Ord. No. 141, § 5, 4-2-1999)

### **Sec. 18-98. Alternative structure numbering system within subdivisions.**

- (a) *Generally.* When variation from the coordinate based numbering system is approved for large subdivisions, the following system shall be utilized. Under the guidelines of this street numbering system, the frontage along the street is given a number rather than a particular structure. This principle is in recognition of the fact that there is no good way of knowing how many structures will eventually be built on vacant land within a subdivision, and that any numbering scheme which attempts to number structures consecutively must leave flexibility to accommodate change. By assuming a property number to an interval of front footage along the street, a system is established whereby change and growth are conveniently handled. By using increments of 50 feet in low density residential areas as exist in most the county subdivisions, a suitable number interval will be derived. Haphazard changes in increment intervals should be avoided to promote consistence and order in the numbering system. The graphic illustrating this system is contained in Exhibit 0141.0708 in section 7 of the appendix, on file and available for inspection in the county offices.
- (b) *Structure numbering procedure.* At the beginning of the street that is going to be numbered, the footage increments on the southerly and easterly sides of the street will be odd-numbered. Numbers on the northerly and westerly sides of the streets will be even-numbered. The procedure is extended throughout the subdivision.
- (c) *Intersecting streets.* The first encountered street in the subdivision will be a 100 number, next encountered street, a 200 number and so forth.
  - (1) Increment intervals at "T" intersection and around loops and certain curvilinear streets may require some numbering manipulation to maintain alternating number sequence logic from even and odd sides of the street.
  - (2) Corner lot addresses will be determined on the basis of which street the house faces.

(Ord. No. 141, § 5, 4-2-1999)

### **Sec. 18-99. Changes in emergency service area (ESN) boundaries.**

A change in emergency service providers within any given ESN may require that telephone numbers and/or addresses be changed to conform to the 911 emergency telephone response system. Any change in emergency service providers or ESN boundaries shall be subject to the following:

- (1) *Determination of fee.* Every public or private emergency service agency, whether or not it is based within the county, which requests a change in its emergency service area (ESN) boundaries, shall be

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assessed a fee for such change. The ESN change fee shall be calculated by determining the number of telephone subscriber plant records affected by such change. The number of records affected shall then be multiplied by the current fee per subscriber as established by the board of commissioners. The board of commissioners may review the ESN change fee on an annual basis, and may adjust the fee from time by board of commissioners resolution.

- (2) *Imposition of fee.* Fees imposed under this section shall be estimated prior to implementing any change in any ESN boundaries. No change in any ESN boundaries shall be allowed, unless and until the requesting parties deposit funds with the county, in an amount equal to such estimate. Upon completion of the necessary changes to the E-911 database to accommodate any changes in ESN boundaries, the county shall prepare a final billing statement based on the actual number of telephone subscriber plant records required to be changed. The requesting parties shall then be billed for the outstanding balance, or refunded any balance from their estimated payment.
- (3) *Waiving of fees.* The board of commissioners, at its option, may waive any or all of the fees established under this section due to demonstrated hardship or need.

(Ord. No. 141, § 5, 4-2-1999)

**Secs. 18-100—18-120. Reserved.**

#### *DIVISION 4. IDENTIFICATION SIGNS*

**Sec. 18-121. Design and placement.**

- (a) The board of commissioners shall adopt a standard for county road and house number sign design and a standard for sign placement as designated by this article. Such adopted sign design standard shall be designated as Exhibit 0141.0702 in section 7 of the appendix on file and available for inspection in the county offices. Such sign placement standard shall be designated as Exhibit 0141.0703 in section 7 of the appendix on file and available for inspection in the county offices.
- (b) County road sign specifications shall be as adopted by the board of commissioners and constructed as specified in Exhibit 0141.0703, section 7 of the appendix on file and available for inspection in the county offices.
- (c) The board of commissioners shall adopt a standard for house number signs as designated by this article. Such adopted house number sign design standard shall be designated as Exhibit 0141.0705, section 7 of the appendix on file and available for inspection for inspection in the county offices.
- (d) House number sign specifications shall be as adopted by the board of commissioners and as specified in Exhibit 0141.0706, section 7, the appendix on file and available for inspection in the county offices. Signs shall be mounted and placed as specified in Exhibits 0141.0705 and 0144.0706, section 7 of the appendix on file and available for inspection in the county offices.

(Ord. No. 141, § 6, 4-2-1999)

**Secs. 18-122—18-150. Reserved.**

### ***ARTICLE III. HIGHWAY ACCESS MANAGEMENT***

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### **Sec. 18-151. General provisions.**

- (a) *Title.* This article shall be known as the "Blue Earth County Highway Access Management Ordinance," except as referred to herein as "this article."
- (b) *Purpose.* The board of commissioners recognizes the need for regulation of entrances from adjoining lands to the traveled way of the county state aid highways and the county road systems under their supervision in order to promote the public safety, efficient flow of traffic, the aesthetic values, and engineering integrity of said road systems.
- (c) *Interpretation.* The provisions of this article shall be interpreted to be the minimum requirements necessary to promote and protect the public health, safety, and general welfare.
- (d) *Statutory authorization.* Statutory Authorization is pursuant to Minn. Stats. ch. 160, § 160.08 subd. 3; § 160.18 subds. 1—3; and § 160.27 subds. 1—13.

(Ord. of 1-6-2006, § 1)

### **Sec. 18-152. Definitions.**

For the purpose of this article, certain words contained in this section shall have the following meaning. Words not defined in this section shall have the meaning defined in Minnesota State Statutes. Words not defined in this article or in Minnesota State Statutes shall have the meaning customarily associated with them.

*Access:* A driveway or field entrance.

*Access permit:* A permit issued by the county engineer or his/her designee(s) authorizing construction of a driveway within a county right-of-way.

*Developer:* The owner of the land or his/her representative.

*Driveway:* Any private way that provides access to residences, business, industry, or other similar appropriate use.

*Field entrance:* Any private way that provides access to an agricultural field for primarily agricultural purposes.

*Right-of-way:* Land in which the county has any interest, (including, but not limited to, by fee title, easement, or plat dedication), which is primarily intended, directly or indirectly, for public transportation use.

(Ord. of 1-3-2006, § 2)

### **Sec. 18-153. Administration and enforcement.**

- (a) *Authority.* The county engineer or his/her designee(s) (hereinafter "county engineer") shall administer and enforce the provisions of this article.
- (b) *Removal of unpermitted access.* The county may, in the discretion of the county engineer, remove unpermitted accesses from county right-of-way.
- (c) *Violations and penalties.* Any person who violates or fails to comply with any provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, may be punished to the maximum extent allowed by law. For each day the violation continues, a separate offense shall be declared.

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- (d) *Access permits after start of construction.* In addition to any other civil or criminal sanctions, access permits issued after construction has been initiated in a county right-of-way shall be subject to double the normal access permit application fees.
  - (e) *Enforcement.* This article may also be enforced by civil court action taken by the county attorney after resolution by the county board of commissioners' authorizing civil court action.
  - (f) *Amendments.* The Blue Earth County Board of Commissioners may amend, supplement, or repeal provisions of this article after a public hearing has been held. A notice of time, place, and purpose of hearing shall be posted and published in the official newspaper of the county at least ten days prior to the day of the hearing.
  - (g) *Validity.* Should any section, subdivision, or provision of this article be declared by the courts to be invalid, such decision shall not affect the validity of the article as a whole or any part thereof other than the part so declared to be invalid.
  - (h) *Date of effect.* This article shall be in full force and effect after its approval and publication as provided by law.

(Ord. of 1-3-2006, § 3)

### **Sec. 18-154. Access permit required.**

A written access permit, issued by the county engineer, shall be required before construction, alteration, or change of use of an access, whether a driveway or a field entrance, within any Blue Earth County right-of-way.

Examples of when an access permit is required include:

- (a) A new access onto a county road or county state aid highway.

Note: A property split does not necessarily create a right for a new access for contiguous parcels.

- (b) Revised use of or improvement to an existing access onto a county road or county state aid highway.

Note: Access permits are granted for a specific use. If the land owner proposes to change the current use of an access point, a new permit is required since the location of a particular drive may be suited for one use but not for another. This includes changing the use of an existing field approach.

- (c) Development proposal or plat adjacent to an existing or proposed county road or county state aid highway.

Note: "Development" includes a change in land use designation, subdivision of land or lot split, or any commercial or industrial use of land.

(Ord. of 1-3-2006, § 4)

### **Sec. 18-155. Access permit application and bond.**

- (a) *Access permit applications.* Applications for an access permit must be made in writing on the form provided by the county engineer. Access permit applications will be reviewed taking into consideration the current Blue Earth County Transportation Plan.

Work shall be completed within the time specified on the access permit, and the completed work must be approved by the county engineer. An access constructed in a manner that does not comply with the standards set out in the access permit will be removed by the county. If the county removes a noncompliant access, the access permit is rescinded and the developer will need to submit another access permit application and bond. The cost of

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the second access permit will include the cost normally associated with an access permit plus the cost to remove the previous access.

- (b) *Bond.* A bond may be required, at the discretion of the county engineer, to insure compliance of an access permit's restrictions and requirements.

Property that is considered for rezoning, for commercial, residential, or industrial use, shall be reviewed by the county engineer or his/her designee(s) to insure an access compatible to the zoning can be granted.

(Ord. of 1-3-2006, § 5)

### **Sec. 18-156. Variances for spacing criteria and other standards.**

Access will not be permitted where the county has acquired controlled access right-of-way. Spacing shall conform to the current Blue Earth County Transportation Plan. Variances of less than 20 percent of the minimum spacing or other standards may be granted by the county engineer on a case-by-case basis. Variances of 20 percent or greater will need to be approved by the county board. Variances shall only be permitted when they are in harmony with the general purposes of this article and to avoid hardship.

(Ord. of 1-3-2006, § 6)

### **Sec. 18-157. Geometric design.**

- (a) The design of all new roads intersecting and entrances onto Blue Earth County roadways shall meet MnDOT standards.
- (b) All accesses onto county right-of-way shall be aligned to be straight and perpendicular to the centerline of the adjacent county roadway.
- (c) All facilities, such as signs, entrances medians, fencing, etc. shall be placed or constructed outside the county right-of-way.
- (d) Culverts constructed/placed within county right-of-way, as part of an access, shall be a minimum of 15 inches or a size determined by the Blue Earth County Department of Public Works, whichever is greater. Plastic pipe will not be used on accesses within the county right-of-way.
- (e) Whenever possible, the location of new access points shall be aligned with street accesses and/or entrances on the opposing side of the roadway to create four-way intersections. Off-set intersections within the spacing criteria are to be avoided.
- (f) Wherever possible, access points to commercial areas shall be combined through service roads or common access points.
- (g) Wherever possible, access locations shall be directed onto roadways with a lower functional classification or lower traffic volume.
- (h) The stacking distance back from an intersection on an arterial or collector will be considered when determining if a new access point will be allowed. A new full access will not be allowed within a fully-developed left-turn lane, right-turn lane, or bypass lane.
- (i) A right in/right out access may be required for safety and traffic flow purposes if other access options are not consistent with public safety and traffic flow.

(Ord. of 1-3-2006, § 7)

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**Sec. 18-158. Turn lanes and bypass lanes.**

A developer shall install right-turn lanes on the county road or county state aid highway at their expense at all subdivisions and public roads, or any entrance serving commercial or industrial property that is estimated to generate over 100 right turns per day.

A left-turn bypass lane may be required if warranted in MnDOT's Road Design Manual.

Turn lanes and/or bypass lanes may be required if other similar accesses along the same segment of the roadway already have turn lanes and/or bypass lanes.

Turn lanes and bypass lanes shall be designed and constructed to Blue Earth County standards.

If turn lanes or bypass lanes cannot be constructed due to limitations in right-of-way, the developer shall be required to pay an amount determined by the county engineer, pursuant to state standards, to be adequate to cover the cost of such items.

(Ord. of 1-3-2006, § 8)

**Secs. 18-159—18-170. Reserved.**

***ARTICLE IV. MANAGEMENT OF MOTORIZED GOLF CARTS, ALL TERRAIN VEHICLES, UTILITY TASK VEHICLES AND MINI TRUCKS<sup>22</sup>***

**Secs. 18-171. Purpose.**

Minnesota Statutes §§ 169.045 and 84.92-84.928 generally regulate the use of motorized golf carts, all-terrain vehicles, utility task vehicles, and/or mini trucks within the right-of-way for county state aid highways, and county roads. Consistent with these statutes and to provide for the health, safety, and welfare of its citizens, as well as to ensure the integrity of roads under the jurisdiction of Blue Earth County, the county board of commissioners hereby ordains the following provisions to allow the use of motorized golf carts, all-terrain vehicles, utility task vehicles, and mini trucks on county state aid highways and county roads within Blue Earth County.

(Ord. of 5-29-2018, § 1)

**Sec. 18-172. Definitions.**

The following definitions apply to this article:

*All-terrain vehicle* has the meaning given in Minn. Stats. § 84.92, as amended.

*County* means the County of Blue Earth, Minnesota.

*County road* means all roads designated in Blue Earth County as County roads.

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<sup>22</sup>Editor's note(s)—An Ord. of May 29, 2018 has been treated by the editor as superseding an uncodified Ord. of Sept. 25, 2012 which pertained to the management of all terrain vehicles and mini trucks.

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*County road right-of-way* shall be the public road right-of-way for a road or highway under the jurisdiction of Blue Earth County, where Blue Earth County is the road authority as defined by Minn. Stats. § 160.02, Subdivision 25, as amended.

*County state aid highway* means all roads designated in Blue Earth County as county state aid highways.

*Mini truck* has the meaning given in Minn. Stats. § 169.011, subdivision 40a, as amended.

*Motorized golf cart* means a vehicle of the type and style manufactured for and primarily used by patrons on a golf course that is propelled by either a gas or electric motor, that can attain a maximum speed of 25 miles per hour on a paved level surface.

*Road right-of-way* shall have the meaning defined by Minn. Stats. § 84.92, Subdivision 6a, as amended; and

*Utility task vehicle* has the meaning given in Minn. Stats. § 169.045, subdivision 1(3), as amended.

(Ord. of 5-29-2018, § II)

### **Sec. 18-173. Permitted operation on county roads.**

In accordance with this article and Minn. Stats. § 169.045 and 84.92—84.928, it shall be permissible to operate motorized golf carts, all-terrain vehicles, utility task vehicles, or mini trucks on the following road right-of-way in Blue Earth County by permit: All gravel-surfaced county state aid highway rights-of-way and county road rights-of-way and all paved county state aid highway rights-of-way and county road rights-of-way, except those listed in subsection (6) of this section.

- (1) Persons operating a motorized golf cart, an all-terrain vehicle, a utility task vehicle, or a mini truck on any of the roadways listed in section iii must operate the motorized golf cart, all-terrain vehicle, utility task vehicle, or mini truck on the extreme right-hand side of the road and make left turns across the road only if it is safe to do so under prevailing conditions.
- (2) Except as otherwise provided in this article, all motorized golf carts, all-terrain vehicles, utility task vehicles, or mini trucks shall comply with Minn. Stats. §§ 169.045 and 84.92—84.928, as amended, as well as any other federal, state, or local law, rule, or regulation.
- (3) Except for Class 1 all-terrain vehicles, persons operating motorized golf carts, all-terrain vehicles, utility task vehicles, or mini trucks within the right-of-way of any roadways listed above shall not operate their motorized golf carts, all-terrain vehicles, utility task vehicles, or mini trucks on the inside slope, ditch bottom, or outside slope of the right-of-way, unless such operation is permitted by appropriate trail designation or signage. Class 1 all-terrain vehicles may not be operated within the inside slope, ditch bottom, or outside slope of the right-of-way of any roadway listed above from April 1 to August 1.
- (4) Motorized golf carts, all-terrain vehicles, utility task vehicles, or mini trucks may only be operated on designated roadways from sunrise to sunset, unless equipped with original equipment headlights, taillights, and rear-facing brake lights. They shall not be operated in inclement weather, except during legally recognized emergency conditions, or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient visibility to clearly see persons and vehicles on the roadway at a distance of 500 feet.
- (5) Motorized golf carts shall display the slow-moving vehicle emblem provided for in Minnesota Statute § 169.522, as amended, when operated on designated roadways.
- (6) All county state aid highways and county roads are closed to motorized golf cart, all-terrain vehicle, and utility task vehicle operation within the city limits of the City of Mankato.
- (7) Motorized golf carts, all-terrain vehicles, and utility task vehicles shall be equipped with an exterior mirror mounted on the driver's side of the vehicle, and any other equipment as required by this article



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or by law. Mini trucks shall be equipped with the required equipment as provided for in Minnesota Statute § 169.045, as amended, or any other law.

(Ord. of 5-29-2018, § III)

**Sec. 18-174. Exemptions.**

- (a) Nothing in this article is intended to prohibit the crossing of a county road or highway which is otherwise allowed by Minn. Stats. § 84.928, Subdivision 1, as amended.
- (b) Nothing in this article shall prohibit the agricultural use of all-terrain vehicles in county road rights-of-way as defined in 84.92, Minn. Stats. § Subdivision 1 (d), or the use of all-terrain vehicles to maintain private and/or public accesses, private driveways, public roadways, and other lawful ways over and across county road Rights-of-Way.
- (c) This article shall not apply to any agent or employee of Blue Earth County while performing any authorized work within a county road right-of-way.
- (d) This article shall not apply to authorized emergency response and law enforcement personnel in the performance of their duties, or to any agent or employee of the state or federal government in the performance of authorized activities within a county road right-of-way.
- (e) This article shall not apply to any agent or employee of public utility companies while performing any authorized work within a county road right-of-way.
- (f) Nothing in this article is intended to prohibit or restrict the operation of motorized golf carts, all-terrain vehicles, utility task vehicles, and/or mini trucks as otherwise allowed and provided for by Minnesota Statutes.
- (g) The public works director has the sole discretion to close roads to motorized golf cart, all-terrain vehicle, utility task vehicle, and/or mini truck use if damage to the roadway results or where public safety is adversely affected as a result of motorized golf cart, all-terrain vehicle, utility task vehicle, or mini truck use. Actions under this section may be reviewed by the county board of commissioners.

(Ord. of 5-29-2018, § IV)

**Sec. 18-175. Requirements for a permit.**

- (a) Application shall be made in a form supplied by the county and shall contain the information listed below. All permits shall be issued by the Blue Earth County Sheriff's Office or other appropriate agency.
- (b) All motorized golf cart, all-terrain vehicle, utility task vehicle, and/or mini truck owners must provide proof of liability insurance at all times when operating on a roadway and a valid certificate of insurance coverage must be submitted at the time of the permit application.
- (c) The permit shall be issued for a period of three calendar years (January 1 through December 31) and may be renewed thereafter.
- (d) No county permit is necessary to operate motorized golf carts, all-terrain vehicles, utility task vehicles, and/or mini trucks if they are not operated on the designated roadways as set forth in section 18-173.
- (e) All motorized golf cart, all-terrain vehicle, utility task vehicle, and/or mini truck permits from other jurisdictions will be honored in Blue Earth County as long as they are filed with the Blue Earth County Sheriff's Office or such other department as specified by the administrator for Blue Earth County.
- (f) A permit fee shall be established by board resolution.

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(Ord. of 5-29-2018, § V)

**Sec. 18-176. Penalty.**

- (a) A person who violates any provision of this ordinance is guilty of a misdemeanor.
- (b) The primary responsibility for enforcement of this article shall rest with the sheriff's office.
- (c) This article may be enforced by any other law enforcement officer if the officer is the member of a city, state or county agency which has a reciprocal enforcement agreement with Blue Earth County.

(Ord. of 5-29-2018, § VI)

**Chapter 20 LAND DIVISION<sup>23</sup>**

***ARTICLE I. IN GENERAL***

**Sec. 20-1. Purpose, scope and statutory authorization.**

- (a) This chapter is adopted pursuant to authority contained in Minn. Stats. ch. 394, the County Planning and Zoning enabling legislation; Minn. Stats. ch. 505, Plats, coordinates and surveys; and Minn. Stats. ch. 508, registration of torrens land. The rules and regulations governing division of land contained in this chapter shall apply within the county and other land as permitted by state statutes.
- (b) Except in the case of re-platting, this chapter shall not apply to any lots forming a part of a plat recorded or registered in the county taxpayer services department prior to May 18, 2017, nor is it intended by this chapter to repeal, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by, or in conflict with this chapter, or with restrictive covenants running with the land. Where this chapter imposes a greater restriction upon the land being divided than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

(Ord. of 4-18-2017)

**Sec. 20-2. Policies.**

This chapter sets forth the minimum requirements deemed necessary to ensure and protect the health, safety and welfare of the public. More specifically, the provisions of this chapter are designed to:

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<sup>23</sup>Editor's note(s)—An ord. of April 18, 2017, amended and restated former Ch. 20, Arts. I—VI, in its entirety. Former Ch. 20 pertained to subdivision of land and derived from Ord. No. 140, §§ 1—10, adopted Nov. 24, 1998.

Cross reference(s)—Environment, ch. 6; floods, ch. 8; general regulations for subdivisions, § 8-131; subdivision and platting, § 14-191 et seq.; streets, roads, highways and other public places, ch. 18.

State law reference(s)—Authority of county to control and regulate the platting of subdivisions of land, Minn. Stats. § 505.09.

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- (1) Ensure that to the maximum extent possible, all lands will be developed with adequate protection provided for the health and safety of residents by requiring necessary services such as properly designed streets and adequate sewage and water service.
  - (2) Ensure that effective protection is given to the natural resources of the community, especially groundwater and surface waters.
  - (3) Encourage well-planned divisions of land through the establishment of adequate design standards.
  - (4) Discourage inferior developments that might adversely affect the local tax base.
  - (5) Place the cost of improvements against those benefitting from their construction.
  - (6) Create neighborhoods which will be of lasting credit to the community.
  - (7) Facilitate adequate provisions for transportation and other public facilities.
  - (8) Secure the rights of the public with respect to public lands and waters.
  - (9) Improve land records by the establishment of standards for land divisions, surveys, and Plats.
  - (10) Safeguard the interests of the public, the homeowner, the Subdivider and local units of government.
  - (11) Prevent, where possible, excessive governmental operating and maintenance costs.

(Ord. of 4-18-2017)

### **Sec. 20-3. Title of chapter.**

This chapter shall be known as the Land Division Ordinance of Blue Earth County, and will be referred to in this chapter as "this chapter."

(Ord. of 4-18-2017)

### **Sec. 20-4. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrative land split* means an approval of a change in property description of land that is approved by the zoning administrator and not subject to public hearings.

*Agent* means someone who is authorized to act for or in place of another; a representative.

*Agricultural land means* land devoted to the production of horticulture, row or close grown crops, pasture, and introduced hayland crops, and to the pasturing of livestock and dairy animals, to growing nursery stock, and to animal feedlots, or was set aside to receive price support or other government subsidy payments, six of the ten years prior to the date of adoption of this chapter.

*Block* means a tract of land consisting of one or more lots, as identified on the plat, and bounded by plat boundaries, public ways, Outlots, parks or bodies of water.

*Bluff* means a topographic feature such as a hill, cliff or embankment having the following characteristics.

- (1) The slope rises at least 15 feet from the toe of the bluff to the top of the bluff.
- (2) The grade of the slope from the toe of the bluff to the top of the bluff averages 30 percent or greater.

*Bluff, toe* means the lower point of a bluff where the slope averages less than 18 percent.

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*Bluff, top* means the higher point of a bluff where the slope averages less than 18 percent.

*Bluff impact zone* means land located within 30 feet from the top of a bluff and land located within five (5) feet from the toe of the bluff.

*Board of Commissioners* means the county board of commissioners, which also functions as the community board of health per Minn. Stats. § 145A.03.

*Buildable area* means a contiguous portion of a lot that is suitable for the location of the primary structure and that excludes all existing and proposed easements, setback areas for principal structures, wetlands, floodplains, steep slopes that are unbuildable under the Code, and other unbuildable areas.

*Buildable lot* means a parcel of record, or other lot, tract or parcel legally recorded with the county recorder that meets the requirements of the code, and where required, has frontage on an improved and maintained public road. An outlot is not buildable.

*Change in conditions* means a change in conditions relating to drainage, traffic circulation, density, lot area, lot dimensions, etc., which varies from the basic physical conditions in effect at the time of original preliminary or final plat approval.

*Code* means the Code of Ordinances, Blue Earth County, Minnesota, as designated in section 1-1.

*Common development plan* means a development project completed at once or in stages with each stage being capable of existing independently.

*Common interest community* means contiguous or noncontiguous real estate within the state that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership of occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies (hereafter referred to as a CIC).

- (1) *Condominium*. A CIC in which portions of the real estate are designated as units, the remainder of the real estate is designated for common ownership solely by the owners of the units, and undivided interests in the common elements are vested in the unit owners.
- (2) *Cooperative*. A CIC in which the real estate is owned by an association each of whose members is entitled by virtue of the member's ownership interest in the association to a proprietary lease.
- (3) *Flexible CIC*. A CIC to which additional real estate may be added.
- (4) *Leasehold CIC*. A CIC in which all or a portion of the real estate is subject to a lease the expiration of which will terminate the CIC or reduce its size.
- (5) *Planned community*. A CIC that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

*Comprehensive plan* means the policies, statements, goals and interrelated plans for public and private land and water use, transportation and community facilities, including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for future development of the county or any portion of the county. The document is titled "Blue Earth County Land Use Plan", and was adopted June 30, 1998, as amended, or as hereafter revised or superseded by new comprehensive plans.

*Contour map* means a map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

*Copy* means a print or reproduction made from an original document.

*Corner lot* means a Lot bordered on at least two sides by streets.

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*Covenants* means contracts entered into between private parties which constitutes a restriction on the use of all private property within a Plat for the benefit of property owners to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

*Conveyance* means the legal process of transferring property from one owner to another.

*Development* means the act of building structures and installing site improvements.

*Double frontage lots* means lots which have a front line abutting on one street and a back or rear line abutting on another street.

*Drainage course* means a watercourse or indenture for the drainage of surface water.

*Easement* means a grant by an owner of land for a specific use by persons other than the owner.

*Engineer, county*, means the registered professional engineer employed by the county, unless otherwise stated.

*Engineer, project*, means the registered professional engineer (engineer of record) employed by the subdivider to prepare plans and reports required by this chapter.

*Final plat* (as required by Minn. Stats. § 505.021 Plat Contents; Survey; County Surveyor Approval. § Subdivision 1. Plat format., and Article III of this chapter) means the plat on which the subdivider's plan of land division is presented to the board of commissioners for approval and which, if approved, will be submitted to the county taxpayer services department to be recorded or registered.

*Flag lot* and *panhandle lot* mean a lot which is connected to a public street or highway by a narrow strip of land extending from the buildable lot area to the public street or highway.

*Floodplain* means the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

*Floodway* means the channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.

*Key map* means a map drawn to comparatively small scale which defines the location of the area proposed to be divided. Lot means a tract of land which is all or part of a block and is identified on a plat.

*Lot area* means the area located within the lot lines. The lot area must conform to Lot area standards as stated in chapter 24, pertaining to zoning. Contiguous Lot area must be free from rights-of-way, waterways, easements, ravines or other physical features which would preclude use of the required lot area.

*Metes and bounds description* means a description of real property which is not described solely by reference to a Lot or block shown on a map, or a government lot, but is described by starting at a known point and describing the bearing and distance of the lines forming the boundaries of the property or which delineates a fractional portion of a section, lot, government lot, or area by described lines or portions.

*Minimum land division design standards* means the guides, principles and specifications for the preparation of land division plans indicating, among other things, the minimum and maximum dimensions of various elements set forth in the plan.

*Mylar* means a reproducible copy of the plat which is produced by a photographic process.

*Natural waterway* means a natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area.

*Outlot* means a portion of a plat or registered land survey which may, at a future date, be re-platted. Construction permits for outlots will not be issued until the outlot has been granted development authority by the board of commissioners by other required processes or approvals. Within a plat, outlots shall be identified by alphabetical designation beginning with the letter "A."

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*Owner* means an individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to divide the land under the regulations of this chapter.

*Parcel* means a lot, outlot, government lot, plat, metes and bounds, registered land surveyed, auditor's plat, or other accepted means of description of real property which has been recorded in the county taxpayer services department.

*Parcel of record* means a lot, government lot, plat, metes and bounds, registered land survey, auditor's plat, and all other accepted means of description of real property which has been recorded in the county taxpayer services department as of April 12, 1977 for parcels zoned agricultural or June 8, 1996 for parcels zoned conservation.

*Pedestrian way* means a public right-of-way across or within a block to be used by pedestrians.

*Person* means any individual, firm, association, syndicate or partnership, corporation, trust or any other legal entity.

*Planned unit development* means a defined area of land developed as a unit rather than as an individual development wherein two or more buildings or uses may be located in relationship to each other rather than to the lot lines or land use district boundaries.

*Planning department* means the organization of the planning commission and staff of the land use division of the county environmental services.

*Plat* means a delineation of a survey drawn to scale showing all essential data pertaining to the location and boundaries of individual parcels of land subdivided into blocks, lots, outlots, streets, and public ways.

*Preliminary plat* means the preliminary map, drawing or chart indicating the proposed layout of the plat which is submitted to the planning commission and board of commissioners for their consideration.

*Recreational land* means land intended for open space or recreational activities that do not require additional land development.

*Right-of-way* means the land covered by a public road or other land dedicated for public use or for certain private use such as land over which a power line passes.

*Right-of-way width* means the shortest distance between the lines delineating the right-of-way.

*Shoreland* means land located within the following distances from public waters:

- (1) One thousand feet from the normal high water mark of a lake, pond or flowage; or
- (2) Three hundred feet from a river or stream, or the landward extension of a floodplain designated by ordinance on such a river or stream, whichever is greater.

*Simple land split* means the division of land requiring review as outlined in the simple land split process of this chapter.

*Slope, steep*, means land where development is not recommended or which is described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in the county soil survey or other technical reports. Where specific information is not available, a steep slope is land having an average slope exceeding 12 percent, as measured over a horizontal distance of 50 feet or more, that is not a bluff.

*Streets, roads, and alleys* means:

- 1) *Alley*. A minor way which is used primarily for secondary vehicular service access to the back or the side of properties abutting on a street.

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- (2) *Private street.* A street serving as vehicular access to two or more parcels of land which is not dedicated to the public but is owned by one or more private parties.
  - (3) *Public street.* A public way for vehicular traffic designated as a street, highway, thoroughfare, arterial parkway, throughway road, avenue, land, place, or as otherwise described.
  - (4) *Arterial street.* A street or highway with access restrictions designed to carry large volumes of traffic between various sectors of the county and beyond.
  - (5) *Collector street.* A street which carries traffic from local streets to arterials.
  - (6) *Cul-de-sac.* A dead-end street terminating in a circular turnaround.
  - (7) *Local street.* A street of limited continuity used as primary access to abutting properties located in a neighborhood.
  - (8) *Minor street.* A street of limited continuity used primarily for access to abutting properties which meets the local needs of a neighborhood.
  - (9) *Service street.* Marginal access street, or as otherwise designated, is a minor street, which is parallel and adjacent to a thoroughfare which provides access to abutting properties and protection from through traffic.

*Street width* means the shortest distance between the lines delineating the surface area of a street.

*Subdivider* means any person proceeding under this chapter to effect a division of land for themselves or for another.

*Subdivision, major* means a division of land requiring review as outlined in the formal subdivision platting process of this chapter.

*Subdivision, minor* means a division of land requiring review as outlined in the administrative land split process of this chapter.

*Surveyor* means a land surveyor licensed in the state.

*Utilities* means all utility services, including, but not limited to water, sewer, phone, electrical services, whether such services are government-owned facilities or furnished by private utility companies, or privately installed and maintained.

*Zoning chapter* means chapter 24 of this Code.

(Ord. of 4-18-2017)

## **Secs. 20-5—20-40. Reserved.**

## **ARTICLE II. ADMINISTRATION AND ENFORCEMENT<sup>24</sup>**

### **Sec. 20-41. Administration.**

This chapter shall be administered by the board of commissioners through the planning commission appointed by the board of commissioners. The zoning administrator, county engineer and county sanitarian shall

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<sup>24</sup>Cross reference(s)—Administration, Ch.2.

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provide technical assistance to the planning commission. The zoning administrator shall be responsible for implementation of the regulations of this chapter.

(Ord. of 4-18-2017)

### **Sec. 20-42. Compliance with chapter provisions.**

- (a) The major subdivision of all land within the county is subject to the formal platting approval process through public hearings conducted by the planning commission and board of commissioners as set forth in Minn. Stats. Ch. 505, and Minn. Stats. Ch. 394, unless excepted by provisions contained in Article III, Division 2, Platting Exceptions. Before any Plat shall have validity, it shall be reviewed by the county planning commission and approved by the board of commissioners as provided in this article, and recorded in the county taxpayer services department. After the adoption of this chapter, no lot in a plat shall be sold, no permit shall be issued to alter or erect any building upon land in a plat, no building shall be erected, nor any use commenced in a plat unless a plat has been recorded. No plat shall be recorded until any reasonable improvements required by this chapter have been constructed, or until financial assurances for such improvements, approved by the board of commissioners, have been posted.
- (b) Any division or consolidation of land within the county is subject to a septic compliance inspection as required by section 6-435 of the Subsurface Sewage Treatment System (SSTS) Ordinance [Article V of Chapter 6 of this Code].
- (c) The planning commission's recommendations on the potential use and development of any land shall be based on the land's suitability for development. No land shall be divided which is held unsuitable by reason of unsuitable soils, flooding, inadequate drainage, inadequate water supply, or inability to provide for adequate sewage treatment, or if in conflict with any intergovernmental agreement provided for by statute between cities, townships and/or the county, the purpose of which is to regulate use of land.
- (d) In those areas where development of the land is regulated by orderly annexation, orderly development or other intergovernmental agreements, the provisions set forth in the agreement shall prevail if more restrictive than the existing county regulations. All proposed plats which include more than four Lots per quarter-quarter section shall be connected to municipal sewer. When extension of municipal sewer to these areas is not economically feasible, the area shall be considered to be premature for development and rezones and plats shall not be approved.
- (e) All lots within the flood fringe district shall contain a building site at least one foot above the regulatory flood protection elevation. All plats shall have water and sewage disposal facilities that comply with the board of commissioners regulations and have road access both to the subdivision and to the individual building sites at least one foot above the regulatory flood protection elevation.
- (f) All applicable provisions of the state statutes and the county regulations regarding erosion control, stormwater runoff and water quality shall be observed. This includes during road construction, installation of infrastructure, and during all development phases of the plat.
  - (1) Best management practices for the control of erosion and storage of stormwater shall be followed as set forth in the Minnesota Pollution Control Agencies "Protecting Water Quality in Urban Areas" manual.
  - (2) On-site stormwater storage and/or detention basins shall be utilized within the plat when required to ensure that post-development runoff does not exceed predevelopment quantities.
- (g) All roads and accesses shall be constructed to applicable township, county or state standards whichever are applicable. All accesses to State and county roads shall be in accordance with approved transportation plans and access guidelines adopted by the state department of transportation and the county.



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- (h) No construction permits shall be issued by the county planning department unless the developer submits an as-built survey signed by a state registered civil engineer certifying that:
- (1) All required improvements have been constructed to applicable standards and the roads have been inspected, and the design standards have been met; or
  - (2) A financial assurance acceptable to the board of commissioners has been posted to guarantee construction of all required improvements. Such financial assurance shall remain in force until all required improvements have been certified to be constructed to applicable standards by the authorized official and accepted for maintenance by the applicable governmental body.

(Ord. of 4-18-2017)

### **Sec. 20-43. Conveyance.**

No conveyance of a parcel resulting in a major subdivision, as defined in this chapter, shall be recorded unless the Parcel to be conveyed is platted. Construction (building) permits will be withheld for buildings on parcels which have been conveyed by metes and bounds descriptions in violation of this chapter, and the county or responsible road authority may refuse to take over, improve, repair, or maintain streets or roads serving such parcels.

(Ord. of 4-18-2017)

### **Sec. 20-44. Platting rules, conditions and requirements clarified.**

Divisions of a parcel in existence as a whole parcel according to the records of the county Land Records office as of a particular date noted in Chapter 24, are subject to this section, whether the division takes place at once or over an extended period of time.

- (a) Any change or alteration within a recorded plat, including a change in lot lines due to a realignment or alteration of a dedicated roadway shall be done by re-platting. The vacation of well and utility easements shall be exempt from this requirement.
- (b) The conversion of common interest communities (CICs), resorts or other similar type pre-zoning ordinance nonconforming developments, as defined by this chapter, meeting the requirements of Minn. Stats. Ch. 515B, shall be processed as planned unit developments. Conversion of such developments from privately owned structures on leased or rented land, or the division of several commonly owned structures on a single parcel of land to individually owned parcels containing separate structures, shall be pursuant to all requirements of Minn. Stats. Ch. 515B. In addition:
  - (1) Common interest communities shall meet minimum guidelines established by the 1995 Common Interest Community Plat Manual, adopted by the Minnesota Society of Professional Surveyors and Minnesota Association of County Surveyors, and shall be recorded in the county taxpayer services department, after approval by the board of commissioners.
  - (2) The conversion of eligible types of developments shall be subject to a conditional use permit granted by the board of commissioners subsequent to public hearings required by Minn. Stats. Ch. 394. The conversion of the planned or common interest community shall be as a planned unit development and is subject to conditions which provide for potable water and adequate sewage treatment facilities for each individual Lot.
  - (3) Conditions may limit use of property to existing use, limit future expansion or intensification of use, density, lot coverage and building bulk, and shall be designed to protect the public interest. Such conditions shall consider the development as a whole for the provision of water and sewer

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in cases where Lots are too small to provide for wells and on-site sewage treatment systems, and shall require connection to municipal services where they are available.

- (4) No planned or common interest community shall be accepted for recording by the county taxpayer services department until approved by the board of commissioners.

(Ord. of 4-18-2017)

### **Sec. 20-45. Enforcement.**

A person violating any provision of this chapter is guilty of a misdemeanor. A misdemeanor is punishable by a fine not to exceed \$1,000.00 or by imprisonment not to exceed 90 days, or both. Unless otherwise provided, each act of violation and every day on which such violation continues shall constitute a separate offense.

(Ord. of 4-18-2017)

### **Sec. 20-46. Amendments.**

- (a) *Generally.* The board of commissioners may adopt amendments to this chapter. Such amendments shall not be granted indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the county's comprehensive plan. All proposed amendments which may impact administration of the shoreland or Chapter 8, pertaining to floods, shall be submitted to, reviewed by and commented on by the Commissioner of the State Department of Natural Resources prior to adoption. Written notice of intent to amend this chapter which may impact shoreland or floodplain areas shall be given to the Commissioner of the State Department of Natural Resources at least ten days prior to the planning commission meeting at which the proposed amendment will be considered. Such notice shall include a draft of the ordinance amendment and a statement as to the potential effect on the shoreland and/or Chapter 8.
- (b) *Required information and exhibits.*
- (1) Completed application made on forms furnished by the zoning administrator.
  - (2) A statement of need and the justification for the proposed amendment.
  - (3) A statement affirming compatibility with the county's comprehensive plan.
  - (4) Text of the portion of the existing ordinance which is proposed to be amended.
  - (5) Proposed text, as amended, and statements outlining any other effects that the amendment may have on other areas of this chapter, or any other land use control in effect in the County.
- (c) *Procedure.* An amendment to the text of this chapter may be initiated by the board of commissioners, the planning commission or by application of a property owner. Any amendment not initiated by the planning commission shall be referred to the planning commission for review and will not be acted upon by the board of commissioners until it has received the planning commission recommendations. Individuals wishing to initiate an amendment to this chapter shall complete an application form and submit it to the zoning administrator.
- (d) *Notice.* Written notice of public hearings on the proposed amendments shall be sent to the governing bodies of all towns and municipalities located within the county.
- (e) *Additional review.* The planning commission may require a review of the proposed amendment when appropriate by the county engineer, county sanitarian, county taxpayer services department and the soil and water conservation district, if deemed advisable by the planning commission.

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- (f) *Public hearing.* A public hearing on the application for amendment shall be held by the planning commission and/or board of commissioners within 60 days after the request for the amendment has been received, and determined to be complete, by the zoning administrator. Notice of such hearing shall be published in the official newspaper designated by the board of commissioners at least ten days prior to the hearing. The planning commission shall make its report to the board of commissioners at the next regular meeting of the board of commissioners. The planning commission may recommend approval, disapproval or modifications of the proposed request.
  - (g) *Board of commissioners action.* The board of commissioners shall take action on the proposed amendment within 60 days following the receipt of the recommendations by the planning commission. The person making application for the amendment shall be notified in writing of the board of commissioners' action.
  - (h) *Reapplication.* No application of a property owner for an amendment to the text of this chapter shall be considered by the planning commission within the one year following denial of such request, except the planning commission may permit a new application if, in the opinion of the planning commission, new evidence or a change in circumstances warrants a revision to the ordinance, or if an amendment to the county's comprehensive plan reflects a change in circumstances which justifies the proposed chapter amendment.

(Ord. of 4-18-2017)

### **Sec. 20-47. Variances.**

- (a) Where the board of adjustments finds that practical difficulty may result from strict compliance with the provisions of this chapter, it may vary the regulations to the extent that substantial justice may be done and the public interest secured, provided that such variation may be granted without detriment to the public interest and will not have the effect of nullifying the intent and purpose of this chapter.
- (b) The standards and requirements of this chapter may be modified by the board of adjustments in the case of a major subdivision large enough to constitute a self-contained community. Such major subdivision must be developed in accordance with a comprehensive development plan safeguarded by appropriate restrictions which make adequate provisions for necessary community facilities. No variance shall be granted which shall have the effect of nullifying the intent and purpose of this chapter.
- (c) In the granting of variances, the board of adjustment shall weigh the benefits of practical difficulty against the general standards and objectives of this chapter, and may require such conditions that will, in its judgment, secure substantially the objectives of the standards or requirements.

(Ord. of 4-18-2017)

### **Sec. 20-48. Appeals.**

The board of adjustment shall hear and decide appeals from and review any order, requirements, decisions or determinations made by any administrative officer charged with enforcing any provision of this chapter.

(Ord. of 4-18-2017)

### **Sec. 20-49. Validity.**

Whenever any provision of this chapter imposes restrictions which are more restrictive than those imposed by provisions of existing laws or ordinances, the provision of this chapter shall govern.

(Ord. of 4-18-2017)

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**Sec. 20-50. Fees.**

There shall be fees established for items in this chapter as established from time to time by resolution of the board of commissioners.

(Ord. of 4-18-2017)

**Secs. 20-51—20-80. Reserved.**

**ARTICLE III. PLATS**

***DIVISION 1. MAJOR SUBDIVISION PLATS***

**Sec. 20-81. Major subdivision plat determination.**

The determination of when a plat is required shall be based upon existing and proposed land divisions within each individual quarter-quarter section. A plat is required if any of the following conditions exist:

- (1) A land division is proposed in any area outside of either the agricultural, or conservation zoning districts, except when exempted in section 20-102.
- (2) A land division is proposed in a given quarter-quarter section which would result in the creation of three or more parcels for new residential development, as part of a common development plan. Note: No provision of this chapter shall permit a residential density greater than what is allowed as stated in Chapter 24 of the Code.;o1;
- (3) A parcel of land is created which requires development of a new public or private street serving more than one parcel, lot or outlot.

(Ord. of 4-18-2017)

**Sec. 20-82. Pre-plat meetings required.**

Prior to the filing of an application for conditional approval of a preliminary plat, the subdivider shall consult with the planning department, the county engineer, the environmental services department, and with the town board of the township in which the plat is to be located to determine specific issues and/or concerns, and to receive input from staff regarding the proposed plat.

(Ord. of 4-18-2017)

**Sec. 20-83. Preliminary plat.**

- (a) Upon completing the required pre-plat meetings, and after concurrence from the zoning administrator, the subdivider shall prepare a preliminary plat, improvement plans, and other supplemental material as may be specified by this chapter, the zoning administrator, the county engineer and the county sanitarian.
- (b) A digital copy of the preliminary plat, and any supplementary materials as specified in section 20-84 shall be submitted to the zoning administrator. The zoning administrator shall distribute copies to the county sanitarian, the county engineer and one copy to the township clerk, within the township in which the

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subdivision is to be located, at least 21 days prior to the meeting at which it is to be considered. In addition, the zoning administrator may require up to six paper copies of the preliminary plat and two 8½-inch × 11-inch reduced copies of the preliminary plat, as needed.

- (c) Following review of the preliminary plat and supplementary material submitted for conformance with this chapter, and negotiations with the subdivider regarding changes and improvements to be made, the planning commission and the board of commissioners shall act on the proposal. Such action may include denial or approval of the plat as submitted, or approval with modifications or conditions. The findings of fact supporting denial, approval or conditional approval shall be in writing and shall be filed as a board resolution in the county taxpayer services department.
- (d) The action of the planning commission and the board of commissioners shall be noted on copies of the preliminary plat. Any required conditions shall be referenced and attached to the plat. One copy shall be returned to the subdivider, one copy to the surveyor, one copy to the town board(s) in which the subdivision is to be located, and the others retained by the zoning Administrator.
- (e) Conditional approval of a preliminary plat shall not constitute approval of the final plat. Conditional approval of a preliminary plat is limited to a period of 12 months. The conditional approval shall become null and void 12 months after approval unless the subdivider applies for and is granted an extension of time by the planning commission and board of commissioners as set forth in section 20-141

(Ord. of 4-18-2017)

### **Sec. 20-84. Preliminary plat specifications.**

- (a) The preliminary plat shall be created electronically, or be drawn on suitable paper or other acceptable material with black waterproof ink or pencil at a scale not greater than 100 feet equals one inch. Plats of large land tracts containing a small number of Lots may be drawn to a scale of 200 feet equals one inch when approved by the staff. Legible reproductions of such drawing must be submitted to the planning commission for purposes of receiving conditional approval.
- (b) The information to be included on the preliminary plat is as follows:
  - (1) Name of the subdivider and surveyor or engineer preparing plat.
  - (2) Proposed plat name and all intended street names.
  - (3) Date, scale, key map, north point.
  - (4) Location of the plat by quarter-quarter section, section, township and range.
  - (5) Location and names of adjacent plats and the owners of adjoining parcels of unsplit land.
  - (6) Zoning classification of lands to be divided and all adjacent lands.
  - (7) Total acreage of land to be divided.
  - (8) Exact length and bearings of the exterior boundaries of the land being divided, including the exact radii, central angle and arc length of all curves. On non-tangential curves a chord bearing and chord distance must be shown. This means the perimeter description around the exterior boundary lines of the plat.
  - (9) Lot layout and dimensions of all lots and outlots.
  - (10) Location, widths and names of all existing platted or dedicated streets, easements, railroad and utility rights-of-way, parks, watercourses, drainage ditches, permanent buildings and structures, and such other data as may be required by the zoning administrator within the area being platted and within 300 feet of the exterior boundaries of the area being platted.

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- (11) The location, layout and width of all new streets, rights-of way, and all easements, existing or proposed, whether public or private, for public and private utilities, with their intended use stated. Maximum grade for proposed roads shall be indicated.
  - (12) The location of existing storm drainage, sewer, water and utility facilities, including poles and utilities stubbed into the property. Reasonable attempts must be made to identify the location, size and capacity of agricultural tiles and abandoned wells.
  - (13) Location and area of all property to be dedicated for public use or reserved by deed covenant for use by all property owners in the development.
  - (14) Written report, prepared by an MPCA licensed individual sewage treatment systems designer, which shows the location of two sites suitable for on-site sewage treatment drainfields for each Lot. The report shall include:
    - a. A site evaluation and preliminary ISTS design based on the proposed use of the Lot. Minimum design shall be based on a four-bedroom, type I single-family home with an effluent flow of 600 gallons per day. The designated sites and ISTS designs must be capable of accommodating the Lot's specific soil conditions, topography and required setbacks.
    - b. Additional information or site specific site development plans may be required.
  - (15) Indicate the type of water supply system and proposed locations for all wells, whether individual private wells, shared private wells or public community water supply wells.
  - (16) Topographic map of the area showing contours as follows: two-foot intervals where the slope is seven percent or less; five-foot intervals where the slope is from seven to 15 percent; 20-foot intervals where the slope is greater than 15 percent. All areas of the Plat with a slope greater than 25 percent must be clearly indicated.
  - (17) Contours shall indicate the toe and top of any bluffs present.
  - (18) Water elevations of adjoining lakes, rivers and streams at the date of the survey and their approximate high and low water elevations. All elevations shall refer to the established United States Survey and/or United States Geodetic Survey Datum.
  - (19) Waterways, watercourses, lakes and wetlands with ordinary high water level and delineated floodway and flood fringe zones. The boundaries of wetlands must be delineated.
  - (20) Proposed easements for drainage, slope protection, flood protection, and protection of wetlands and waterbodies, including stormwater storage areas.
  - (21) When the plat borders a lake, river or stream, a survey line shall be established at an elevation a minimum of four feet above the ordinary high water elevation of the lake, river or stream.
- (c) Supplemental information required to be submitted with the preliminary plat is as follows:
- (1) Proof of ownership, or sufficient interest in the property to legally make the application.
  - (2) Preliminary title opinion letter written by the developer's attorney as specified in section 20-272.
  - (3) If the entire parcel is not being proposed for platting, a sketch indicating how the remaining property could be divided.
  - (4) A statement of the conditions of dedications or reservation for all property to be dedicated for public use or reserved by deed covenant for use by all property owners in the development. Submitted documents must outline the content of proposed restriction, covenants and establishment of homeowners' associations and/or articles of incorporation in sufficient detail to review for content.

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- (5) Drainage report describing predevelopment flows, expected post-development flows, and measures to be taken to ensure that post-development flows do not exceed predevelopment flows. Such report shall describe erosion control measures to be taken to prevent erosion and sedimentation both during and after development.
  - (6) Grading plans showing cut and fill sections for proposed site grading if lot alteration is proposed.
  - (7) An engineering feasibility report for the installation and operation of community type sewage disposal systems and water distribution systems when such facilities are to be incorporated in the Final plat.

(Ord. of 4-18-2017)

### **Sec. 20-85. Final plat.**

- (a) The final plat shall conform substantially to the preliminary plat as approved. If desired by the subdivider, it may constitute only that portion or phase of the approved preliminary plat which is proposed to be recorded and developed. If it is the developer's intent to submit the final plat in phases, the developer shall include a map of such phasing as part of the preliminary approval process, or separately prior to processing the final plat. The zoning administrator shall determine that when submitted, each lot will have access and be usable for its intended purpose. Such portion or phase shall conform to all requirements of this chapter.
- (b) Application for approval of the final plat shall be submitted in writing to the zoning administrator at least 21 days prior to the meeting at which it is to be considered. The 21 days commences when the zoning administrator acknowledges that all required data has been submitted, is complete, and is acceptable.
- (c) A digital copy of the final plat, engineers' cost estimates for required improvements, proposed covenants or restrictions, performance bond or other acceptable method of financial assurance, and other supplemental data required for approval shall be prepared and submitted to the zoning administrator within 12 months after conditional approval of a preliminary plat. In addition, the zoning administrator may require up to four copies of the final plat and two 8½-inch × 11-inch copies of the final plat. If the preliminary approval has expired, the subdivider must be granted an extension of time by the planning commission and board of commissioners before the final plat may be accepted by the zoning administrator for processing.

(Ord. of 4-18-2017)

### **Sec. 20-86. Final plat specifications.**

- (a) The final plat shall be created electronically, or drawn on white paper, Mylar or other suitable material with black waterproof ink. The Final plat shall measure 30 inches in length and 20 inches in width with a border line of 1½ inches provided on the left side of the 20-inch length, and a border of one-half inch provided on the other three sides. When more than one sheet is required for any plat, each sheet shall be numbered consecutively and shall contain a notation of the total number of sheets, i.e., sheet 2 of 3. The Final plat shall be drawn to a scale not greater than 100 feet to the inch. Plats of large land tracts containing a small number of Lots may be drawn to a scale of one inch equals 200 feet when approved by the staff.
- (b) The information to be included on the final plat is as follows:
  - (1) Name of the owner of record.
  - (2) Date, scale, north point.
  - (3) Plat name and all street names.
  - (4) Durable benchmark with complete description, location and elevation when the Plat is located within the shoreland district.

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- (5) Location of the plat by quarter-quarter section, section, town and range.
  - (6) Exact length and bearings of the exterior boundaries of the land being divided, including the exact radii, central angle and arc length of all curves. On non-tangential curves a chord bearing and chord distance must be shown. This means the perimeter description around the exterior boundary lines of the plat.
  - (7) Underlying plats shall be shown as dashed lines.
  - (8) Exact location, widths and names of all streets being platted, their bearings, angle of intersection, length of arcs, radii, points of curvature and tangent bearings.
  - (9) Exact bearings, dimensions and area of all Lots.
  - (10) Location and dimensions of all parks within the boundaries of the land to be divided.
  - (11) The exact location and width of railroad and utility rights-of-way, watercourses, drainage ditches, the exact location and width of all public easements, and a statement of easement rights.
  - (12) Exact location and area of all land to be dedicated for public use or reserved by deed covenant for common use of all property owners with the purpose indicated thereon. All lands dedicated for public use, other than streets, shall be marked "Dedicated to the Public," or labeled as Outlots, with proper dedication in the instrument of dedication.
  - (13) Water elevations of adjoining lakes, rivers and streams at the date of the survey and their approximate high and low water elevations. If high water elevation is available, it shall be shown on the plat.
  - (14) When a plat borders a lake, river or stream, the exact distance and bearings of a survey line shall be established at an elevation a minimum of four feet above the recorded high water elevation of the lake, river or stream.
  - (15) Signature blocks for the following signatures drafted as per section 20-274.
    - a. Notarized certificate of the licensed land surveyor certifying that the Plat fully complies with the requirements of this chapter and the platting laws of the state relative to the surveying, dividing and mapping of land; that the plat is a correct representation of all exterior boundaries of the land surveyed; that the plat represents a survey made by them and that all monumentation complies with Minn. Stats. Ch. 505 that no wetlands exist on the property or that wetlands are shown on the plat, as defined by Minn. Stats. § 505.02, subd. 1. Financial assurances shall cover costs of installing required monumentation when delayed staking provisions of Minn. Stats. Ch. 505 are utilized.
    - b. Notarized owners certificates or instruments of dedication signed by the owners dedicating to the public for full public use all streets, street rights-of-way and other lands designated as "dedicated for the public's use" and granting of utility easements as shown on the plat.
    - c. Title opinion from state licensed attorney, as specified in section 20-273.
    - d. Certificates of approval to be signed by:
      1. The chairperson of the planning commission;
      2. The secretary of the planning commission;
      3. The county engineer;
      4. The county sanitarian;
      5. The board of commissioners chairperson;
      6. The county administrator.



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- e. A certificate to be signed by the county taxpayer services department stating that there are no unpaid taxes or special assessments on any of the lands included in the plat.
  - f. A certificate to be signed by the county recorder or registrar of titles.
- (c) Supplemental information required to be submitted with the final plat is as follows:
- (1) Final improvement plans and final itemized engineer's cost estimate.
    - a. Improvement plans and itemized cost estimates must include, but are not limited to: proposed roads, drainage and erosion control structures, street signage, and municipal or community sewer and/or water systems.
    - b. Electricity must be provided to the lot line of each individual lot.
    - c. Municipal sewer and water must be provided to the lot line of each individual lot where available, or as required per intergovernmental annexation or orderly development agreements, when applicable.
    - d. Costs for installation of required monumentation when delayed staking provisions of Minn. Stats. Ch. 505 are to be utilized.
  - (2) Certificate from the State Department of Health that plans for the water supply system and sewage system have been approved whenever applicable. If the necessary certificates for community type water distribution and sewage disposal systems are not available at the time of approval of the final plat, conditional approval may be given, pending the issuance of such certificates by the State Department of Health. The final plat shall not be recorded until such approval has been received by the planning department.
  - (3) An original copy (to be recorded concurrent with the final plat) of all covenants, conditions or restrictions placed on all property or regulating the use of properties reserved for use as common property by property owners within the plat.
  - (4) Final drainage report, if changes from those presented with the preliminary plat are required by the county engineer.
  - (5) Final grading plans, if changes from those presented with the preliminary plat are required by the county engineer.

(Ord. of 4-18-2017)

### **Sec. 20-87. Recording final plat.**

- (a) No final plat shall be approved by the board of commissioners for recording which has not been reviewed by the environmental services department, the county engineer, the planning commission and the town board in which the plat is to be located.
- (b) The final plat, prepared in accordance with this chapter, shall be filed by the subdivider with the county taxpayer services department. The subdivider shall furnish one reproducible Mylar of the plat to the county taxpayer services department at the time of recording. The county taxpayer services department maintains a GIS mapping system and requires all plats to be submitted in an acceptable digital format in addition to the required Mylar copy.
- (c) Documents that provide for the establishment of homeowners' associations, covenants or deed restrictions, or documents which provide for the maintenance of, or regulate the use of, roads or common areas in the plat, must be recorded in concurrence with recording of the final plat.

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- (d) All approved final plats shall be recorded within 12 months of receiving approval from the planning commission and board of commissioners. Final plat approval shall become null and void 12 months after approval, unless the subdivider applies for and is granted an extension of time by the planning commission and board of commissioners as set forth in section 20-145, pertaining to extensions of time.

(Ord. of 4-18-2017)

**Secs. 20-88—20-100. Reserved.**

*DIVISION 2. PLATTING EXCEPTIONS*

**Sec. 20-101. Platting exceptions determination.**

- (a) Parcels of land, may be divided without going through the formal platting process or conducting a survey, provided that the land division be done in not less than quarter-quarter-quarter section sized parcels along existing section, quarter section, quarter-quarter section, and quarter-quarter-quarter section lines. In addition, the platting or survey process may not be required if the parcel can be described along existing section, quarter section, quarter-quarter section, or quarter-quarter-quarter section lines, and with reference to a river, ravine, lake, road, or railroad. If a split creates a parcel smaller than a quarter-quarter-quarter section, the following conditions apply:
- (1) When a quarter-quarter section of land is divided, one residential parcel meeting area requirements of Chapter 24, pertaining to zoning and as defined in this chapter may be created without going through the platting process. (See the simple land split section below.)
  - (2) Within the remaining quarter-quarter remnant, the creation of the second and subsequent residential building sites shall be done using the administrative land split provision in this chapter. A residential development right must first be secured by either the transfer of development rights or the bonus lot provisions as outlined in Chapter 24.
- (b) When a parcel of land is divided which conveys less than a quarter-quarter-quarter section, it may be done without going through the platting process, if it includes written authorization from the Zoning Administrator. The written authorization shall accompany and be recorded with the metes and bounds description creating the new parcels. An 8½-inch × 11-inch survey drawing, signed by a licensed surveyor must be recorded with the metes and bounds description.
- (1) When a new parcel is intended for residential purposes, and to ensure eligibility for issuance of building permits, a statement signed by the zoning administrator may be recorded confirming that the land division complies with all requirements of this chapter; Chapter 8, pertaining to floods; Chapter 14, pertaining to shoreland zoning; Chapter 24, pertaining to zoning; and the Minnesota Wetlands Conservation Act.
  - (2) Such a land division must not interfere with the purpose of this chapter.

(Ord. of 4-18-2017)

**Sec. 20-102. Simple land splits.**

The conveyance of certain parcels of land may be split administratively if the requirements of this section are met. The zoning administrator shall have the authority to approve simple land splits.

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- (a) *Agricultural land splits.* Land that is being split for agricultural purposes may be allowed if the intended purpose of the conveyance is stated to the county zoning administrator in writing. A deed restriction stating that the conveyance is not intended as a residential building site shall be recorded in the county taxpayer services department.
  - (b) *Recreational land splits.* Land that is being split for recreational purposes may be allowed if the intended purpose of the conveyance is stated to the county zoning administrator in writing. A deed restriction stating that the conveyance is not intended as a building site shall be recorded in the county taxpayer services department.
  - (c) *New residential land split.* Land that is being split to create a parcel for the first residential structure in a quarter-quarter section, where a plat is not required, may be allowed if the quarter-quarter section has a residential development right. Any newly created residential parcel shall meet the requirements of Chapter 24.
  - (d) *Existing residential land split.* Existing rural developments may be split from a larger parcel through the simple land split process if located within an agricultural and/or conservation zoned district. All newly created residential parcels shall meet the requirements of Chapter 24.
  - (e) *Septic drainfield split.* Land that is being split to create an area for the installation of a septic drainfield, meeting MPCA and County requirements, to service one or more neighboring properties may be allowed if the intended purpose of the conveyance is stated to the county zoning administrator in writing. A deed restriction stating that the conveyance is not intended as a building site shall be recorded in the county taxpayer services department.
  - (f) *Public or public service purposes.* Land that is being split to create an area for public or public service purposes, such as for state department of natural resources public water accesses, parks, public utility facilities such as pipeline or powerline service buildings, radio or telephone communication towers, or other similar nonresidential purposes.

(Ord. of 4-18-2017)

### **Sec. 20-103. Simple land split procedures.**

The following documents shall be provided as a part of the simple land split procedure. Unless otherwise stated within this chapter, failure to provide the necessary documents will result in the inability to create a legal land division according to this chapter.

- (a) Simple land split application.
- (b) Simple land split review fee.
- (c) Unless exempt as stated in 20-101(a), one digital copy of a certificate of survey signed by a registered land surveyor for all affected tracts, parcels or lots with the following information, when applicable:
  - (1) Name of the property owner and surveyor or engineer preparing the survey.
  - (2) Date, scale, key map, north point.
  - (3) Location of the land split by quarter-quarter section, section, township and range.
  - (4) Total acreage of land to be split.
  - (5) Length and bearings of the exterior boundaries of the land being split.
  - (6) Parcel layout and dimensions of all parcels.

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- (7) Written report, prepared by an MPCA licensed individual sewage treatment systems designer, which shows the location of two sites suitable for on-site sewage treatment drainfields for each parcel. The report shall include:
    - a. A site evaluation and preliminary ISTS design based on the proposed use of the Lot. Minimum design shall be based on a four-bedroom, type I single-family home with an effluent flow of 600 gallons per day. The designated sites and ISTS designs must be capable of accommodating the Lot's specific soil conditions, topography and required setbacks.
    - b. Additional information or site specific site development plans may be required.
  - (8) Indicate the type of water supply system and proposed locations for all wells, whether individual private wells, shared private wells or public community water supply wells.
  - (9) Waterways, watercourses, lakes and wetlands with ordinary high water level and delineated floodway and flood fringe zones. Wetland boundaries, when determined to be necessary by county staff based upon aerial photo, National Wetland Inventory (NWI), soil, and topographic map review.
  - (10) Other information as requested by the zoning administrator to document a buildable area meeting the minimum requirements of the Code.
- (d) Evidence of ownership or a legal interest in the property. That may include the deed of ownership or a title opinion by a practicing attorney at law.
  - (e) Written approval for road access for each parcel from the appropriate road authority. (township, county, state).

Upon submittal of all required documents, the zoning administrator shall have five business days to review the proposed land split for compliance with all applicable ordinances. If the simple land split is compliant, a document evidencing it, with a survey attached, where required, shall be recorded in the county taxpayer services department. If the simple land split is not compliant all documents shall be returned to the applicant, and the reasons for non-compliance shall be stated in writing to the applicant.

(Ord. of 4-18-2017)

### **Sec. 20-104. Administrative land splits.**

The conveyance of certain parcels of land may be split administratively in agricultural or conservation districts if the requirements of this section are met. The zoning administrator shall have the authority to approve administrative land splits. An administrative land split for the items below shall only be approved if the split does not require creation or altering of any public road right-of-way and any Parcel created by the land split is in compliance with the minimum standards and residential density of the district in which it is located. The land split shall not result in a Lot, Parcel, site, division or building which does not meet the minimum requirements of this chapter or Chapter 24 of the Code for setbacks, size requirements and/or access.

- (a) *Minor subdivisions.*
  - (1) Land that is being split to create a parcel for the second new residential building site in a quarter-quarter section may be allowed if the applicants first secure the applicable residential development right through either the bonus lot provision of Chapter 24 or the transfer of development right process of Chapter 24.
  - (2) Land that is being split to create parcels for two new residential building sites in a quarter-quarter section with or without any existing residential building site(s) may be allowed if the

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applicants first secure the applicable residential development right(s) through either the bonus lot provision of Chapter 24 or the transfer of development right process of Chapter 24.

- (3) The splitting of property for the creation of a third or fourth residential structure in a quarter-quarter section, where a plat is not required, may be allowed if the applicants first secure the applicable development right(s) through either the bonus lot provision of chapter 24 or the transfer of development right process of Chapter 24.

(Ord. of 4-18-2017)

### **Sec. 20-105. Administrative land split procedures.**

The following documents shall be provided as a part of the administrative land split procedure. Failure to provide the necessary documents will result in the inability to create a legal land division according to this chapter.

- (a) Administrative land split application.
- (b) Administrative land split review fee.
- (c) One digital copy of a certificate of survey signed by a registered land surveyor for all affected parcels or lots with the following information, when applicable:
  - (1) Name of the property owner and surveyor or engineer preparing survey.
  - (2) Date, scale, key map, north point.
  - (3) Location of the land split by quarter-quarter section, section, township and range.
  - (4) Total acreage of land to be split.
  - (5) Length and bearings of the exterior boundaries of the land being split.
  - (6) Radii of all curves and lengths of all tangents.
  - (7) Parcel layout and dimensions of all parcel.
  - (8) The location of all easements, existing or proposed, whether public or private, for public and private utilities, with their intended use stated.
  - (9) The location of existing storm drainage, sewer, water and utility facilities, including poles and utilities stubbed into the property. Reasonable attempts must be made to identify the location, size and capacity of agricultural tiles and abandoned wells.
  - (10) Written report, prepared by an MPCA licensed individual sewage treatment systems designer, which shows the location of two sites suitable for on-site sewage treatment drainfields for each parcel. The report shall include:
    - a. A site evaluation and preliminary ISTS design based on the proposed use of the lot. Minimum design shall be based on a four-bedroom, type I single-family home with an effluent flow of 600 gallons per day. The designated sites and ISTS designs must be capable of accommodating the Lot's specific soil conditions, topography and required setbacks.
    - b. Additional information or site specific site development plans may be required.
  - (11) Indicate the type of water supply system and proposed locations for all wells, whether individual private wells, shared private wells or public community water supply wells.
  - (12) Topographic map of the area showing contours as follows: two-foot intervals where the slope is seven percent or less; five-foot intervals where the slope is from seven to 15 percent; 20-foot

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intervals where the slope is greater than 15 percent. All areas of the land division with a slope greater than 25 percent must be clearly indicated.

- (13) Contours lines shall indicate the toe and top of any bluffs present.
  - (14) Water elevations of adjoining lakes, rivers and streams at the date of the survey and their approximate high and low water elevations. All elevations shall refer to the established United States Survey and/or United States Geodetic Survey Datum.
  - (15) Waterways, watercourses, lakes and wetlands with ordinary high water level and delineated floodway and flood fringe zones. Wetland boundaries, when determined to be necessary by County staff based upon aerial photo, National Wetland Inventory (NWI), soil, and topographic map review.
  - (16) Proposed easements for drainage, slope protection, flood protection, and protection of wetlands and waterbodies, including stormwater storage areas.
  - (17) When the land split borders a lake, river or stream, a survey line shall be established at an elevation a minimum of four feet above the ordinary high water elevation of the lake, river or stream.
- (d) Evidence of ownership or a legal interest in the property. That may include the deed of ownership or a title opinion by a practicing attorney at law.
  - (e) Written approval for road access for each parcel from the appropriate road authority. (township, county, state).

Upon submittal of all required documents, the zoning administrator shall have 15 business days to review the proposed land split for compliance with all applicable ordinances. If the administrative land split is compliant, a document evidencing it, with a survey attached, where required, shall be recorded in the county taxpayer services department. If the administrative land split is not compliant, all documents shall be returned to the applicant, and the reasons for non-compliance shall be stated in writing to the applicant.

(Ord. of 4-18-2017)

**Secs. 20-106—20-140. Reserved.**

*DIVISION 3. EXTENSIONS OF TIME*

**Sec. 20-141. Application for extensions of time for conditionally approved preliminary plats.**

- (a) All requests shall be in writing to the Zoning Administrator. Requests may be made by the owner, Subdivider, Project Engineer, Attorney or Agent of the Subdivider. All requests shall either be signed by the landowner or be accompanied by a letter stating that the engineer, attorney or agent submitting the request represents their interests.
- (b) The written request shall include a narrative justifying the extension of time, describing the actions taken toward obtaining approval of the final plat and documenting any changes in conditions within the subject property or adjacent properties. Upon receipt of the written request, the department shall conduct an in-depth review of the plat file and submitted documents to determine progress in obtaining final plat approval and changes in conditions. If additional information is needed to make a recommendation to the commission and the board, the staff will notify the applicant advising him of the deficient materials.
- (c) All requests shall be submitted within 90 days of the approved preliminary plat's expiration date.

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- (d) Extensions of time may be approved in one-year increments if, in the opinion of the planning commission and the board of commissioners, the Subdivider is actively processing the final plat, and there are no changes in conditions within the approved preliminary plat, or in adjoining properties which would warrant a revision in the design of the original preliminary plat or which may adversely affect development of the plat.
  - (e) If, in the opinion of the planning commission and the board of commissioners changes have occurred, but do not require a revision of the plat, the board of commissioners may attach conditions to the extension of time to address the county's concerns. If approval is not granted, all proceedings related to the plat shall be terminated. If no extension of time is requested or the extension of time is denied, the subdivider shall resubmit a new preliminary plat.

(Ord. of 4-18-2017)

**Sec. 20-142. Changes in conditions under which the preliminary plat is granted or final plat approved.**

Changes in conditions have occurred when any of the following situations are present:

- (1) When a revision to the Plat is required relating to density, lot dimensions, lot area, setbacks, right-of-way widths, etc., as a result of updates in the County Code, and/or state and federal statutes.
- (2) Changes in drainage patterns due to the alteration or development of upstream or adjacent properties that affect drainage patterns assumed by the approved preliminary or final plat.
- (3) When the availability of sewer facilities changes or documentation of contaminated groundwater is made available that was not available at the time of preliminary or final plat approval.
- (4) The sale of a portion of the land included in the approved preliminary or final plat.
- (5) Changes in the physical terrain caused by flooding, erosion, slides, etc.
- (6) Changes proposed by the subdivider relating to increased density, or changes in traffic circulation or access that require major revisions to the approved plat.

(Ord. of 4-18-2017)

**Sec. 20-143. Actively processing the final plat.**

In determining if the applicant is "actively processing the final plat," the following items will be considered:

- (1) Whether the final plat has been submitted to the zoning administrator for review.
- (2) Changes or corrections that are being made by the applicant in response to the zoning administrator's comments on plats received by the department not more than 90 days prior to approval's expiration date.
- (3) The status of required approvals from various county, state and federal agencies. These may include, but are not limited to: wetland delineations, environmental assessment worksheets or environmental impact statements, the county environmental health or state department of health approval for sewage treatment systems and/or water wells, 401 or 404 permits from the Army Corps of Engineers, and other development related air or water quality permits required by the Minnesota Pollution Control Agency.

(Ord. of 4-18-2017)

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**Sec. 20-144. Limits to be considered in extending approved preliminary plats.**

- (a) A landowner or their agent may make written request for an extension of time for the approved preliminary plat. Such request shall include a narrative justifying the requested extension of time. Upon receipt of the written request, the zoning administrator shall conduct an in-depth review of the plat file and submitted documents to determine whether there have been changes in conditions as set defined in section 20-142. If additional information is needed to make a recommendation to the planning commission and the board of commissioners, staff will notify the applicant advising him of the deficient materials.
- (b) The following limitations will be considered by the planning commission and the board of commissioners when making decisions regarding extensions of time for approved preliminary plats:
  - (1) Changes in ownership alone shall not justify an extension of time. Conditions placed on a preliminary plat are not sensitive to ownership. A new owner may be granted one 12-month extension of time if they submit a written statement confirming the intentions to develop the property according to the approved plan.
  - (2) Economic conditions including bankruptcy, inability to obtain financing, and general market conditions may qualify the applicant for one extension of time.
  - (3) If at least one phase of the plat has been recorded within the past two years and documentation is submitted to show that the subdivider is actively processing the next phase, the extension of time will be considered.
  - (4) If there has been no activity on the plat within two years of preliminary plat approval, the extension of time will be denied.
  - (5) The zoning administrator shall notify the subdivider of the approved Preliminary plat's expiration date. If a subdivider fails to apply for an extension of time within 30 days of notification by the county staff, the resolution which approved the preliminary plat will be rescinded.

(Ord. of 4-18-2017)

**Sec. 20-145. Limits to be considered in extending time for recording of approved final plats.**

- (a) A landowner or their agent may make written request for an extension of time to record the approved final plat. Such request shall include a narrative justifying the requested extension of time. Upon receipt of the written request, the zoning administrator shall conduct an in-depth review of the plat file and submitted documents to determine whether there have been changes in conditions as set forth in section 20-142. If additional information is needed to make a recommendation to the planning commission and the board of commissioners, the staff will notify the applicant advising him of the deficient materials.
- (b) The following limitations will be considered by the planning commission and the board of commissioners when making decisions regarding extensions of time to accommodate the recording of approved final plats:
  - (1) A change in ownership or economic conditions including bankruptcy, inability to obtain financing, and general market conditions may qualify the applicant for one 12-month extension of time.
  - (2) In no case shall the time between approval of the final plat and recording of the final plat exceed 24 months.
  - (3) The zoning administrator shall notify the subdivider or their agent of the approved final plat's expiration date. If a subdivider fails to apply for an extension of time within 30 days of notification by the staff, the resolution which approved the final plat will be rescinded.



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(Ord. of 4-18-2017)

**Sec. 20-146. Extensions of time for construction of required improvements.**

- (a) All requests shall be in writing to the zoning administrator. Requests may be made by the owner, subdivider, project engineer, attorney or agent of the subdivider. All requests shall either be signed by the landowner or be accompanied by a letter stating that the engineer, attorney or agent submitting the request represents their interests.
- (b) The following limitations will be considered by the planning commission and the board of commissioners when making decisions regarding extensions of time to accommodate the completion of required improvements:
  - (1) The written request shall include a narrative justifying the extension of time, describing the extent of completed improvements and the improvements to be completed. The narrative shall propose a reasonable timetable for completion of any outstanding improvements, and shall include an updated engineer's cost estimate. Upon receipt of the written request, the department shall conduct an in-depth review of the plat file and submitted documents to determine progress toward completion of required improvements. If additional information is needed to make a recommendation to the planning commission and the board of commissioners, the staff will notify the applicant advising him of the deficient materials.
  - (2) All requests shall be submitted within the 90 days preceding the expiration date of the engineer's cost estimate and financial assurance.
  - (3) Extensions of time may be approved in one-year increments if, in the opinion of the planning commission and the board of commissioners, the subdivider is actively progressing toward completion of the required improvements.
  - (4) The board of commissioners may attach conditions to the extension of time to address the county's concerns. If approval is not granted, all proceedings related to the plat shall be terminated, the financial assurance shall be forfeited, and monies applied to the construction of required improvements.

(Ord. of 4-18-2017)

**Secs. 20-147—20-190. Reserved.**

***ARTICLE IV. REQUIRED IMPROVEMENTS AND PLAT STANDARDS***

**Sec. 20-191. Purpose of article.**

The required improvements and plat design standards contained in this chapter are to ensure that the style, character and form of new developments will conform to minimum requirements promoting the health, safety and general welfare of the public. In addition to these article regulations and to ensure that future developments are consistent with the growth objectives and goals of the community, Plats shall conform to the comprehensive plan of the county, Chapter 8, pertaining to floods; Chapter 14, pertaining to shoreland zoning; Chapter 24, pertaining to zoning; the Minnesota Wetlands Conservation Act; and any other applicable ordinance of the county.

(Ord. of 4-18-2017)

**Sec. 20-192. Generally.**

- (a) The street system of a proposed plat shall be designed to facilitate adequate traffic circulation from the plat to adjacent areas. Street arrangements, character, width, grade, location, sight distance, and surface materials shall comply with minimum requirements of the Minnesota State Aid Road Design Manual. Proposed design shall be appropriate to accommodate existing or planned streets. Design shall consider average daily traffic, topography, convenience and safety, and the intended function of the street.
- (b) The arrangement of major streets in a plat shall provide for the continuation or projection of existing streets in adjacent areas; or conform to a plan approved by the planning commission where topographic or other conditions make continuance or conformance with existing streets impracticable.
- (c) Collector streets shall be properly related to major streets and designed in a manner so as to supplement the major street system, but not to serve in lieu thereof.
- (d) Local streets shall be designed to benefit from the topography, to discourage through traffic, and to provide the minimum amount of streets necessary for safe access to adjacent properties. The reasonable and intelligent use of curvilinear and cul-de-sac streets is encouraged wherever possible.
- (e) Where a plat abuts upon, or contains an existing or proposed highway, major thoroughfare or railroad right-of-way, the planning commission may require double frontage lots with appropriate screen plantings in the non-access reservation strip. As an alternative, the planning commission may require suitable access roads which provide access to adjacent properties and afford separation of through and local traffic parallel to, and on either side of, such highway, major thoroughfare or railroad right-of-way.
- (f) Streets designed and laid out so as to have one end permanently closed shall not exceed 500 feet in length, except where the planning commission has approved additional length due to property limitations.
- (g) Turnarounds shall be provided at the permanently closed end of all streets and shall have a minimum outside turnaround radius of 60 feet.
- (h) When connecting street lines deflect from each other by more than 15 degrees, they shall be connected by a curve with a radius appropriate to the intended functional use of such street as specified in section 20-193.
- (i) All plats abutting a public lake, river or stream shall provide access at least 150 feet wide to the low water elevation at not more than one-half mile intervals, as measured along the lake, river or stream shoreline.

(Ord. of 4-18-2017)

**Sec. 20-193. Street design standards.**

Street design standards for roads designated to be part of the county road system are based upon the intended ultimate use specified by their functional classification as set forth in the county transportation plan. Design standards for those streets are contained in Table 20-1. A typical county and township road cross section is shown in this section, and is designated as "Typical Cross Section, Table 20-2."

TABLE 20-1  
MINIMUM STREET GEOMETRIC DESIGN STANDARDS

|  | Section line Road or Major Thoroughfare | One-half Section line Road or Collector Street | One-quarter Section line Road or Local Street | Service Access Street | Alley |
|--|---|--|---|-----------------------|-------|
|  |   |  |   |                       |       |

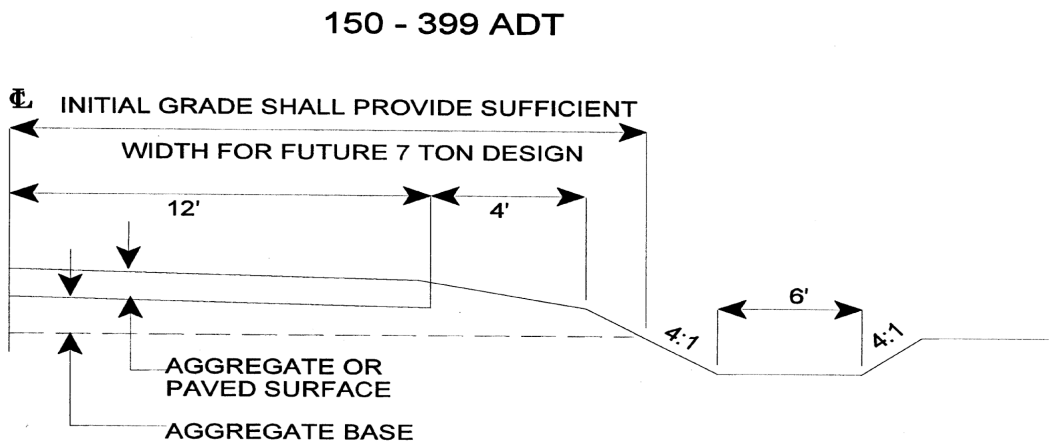
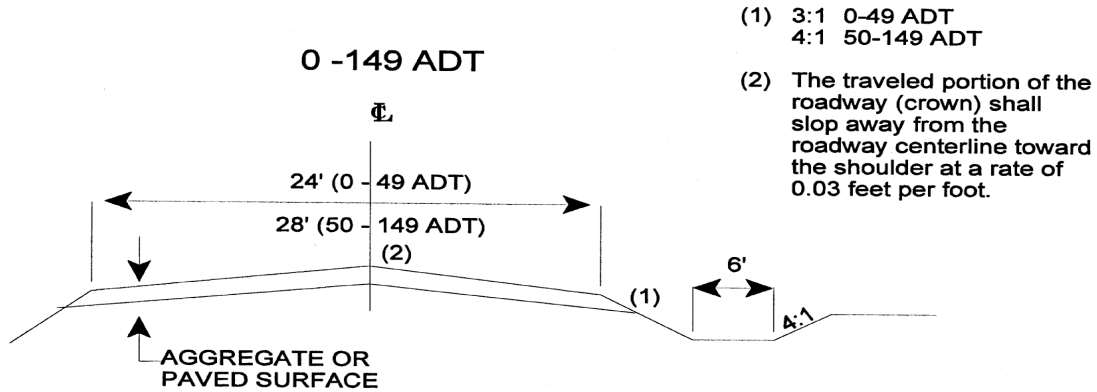
|                                   |                                       |          |                    |          |          |
|-----------------------------------|---------------------------------------|----------|--------------------|----------|----------|
| Rights-of-way                     | 120 feet                              | 100 feet | 66 feet<br>minimum | 40 feet  | 30 feet  |
| Surface width                     | As specified<br>by county<br>engineer | 36 feet  | 30 feet            | 24 feet  | 20 feet  |
| Base specifications               | As specified by the county engineer   |          |                    |          |          |
| Minimum horizontal curve<br>radii | 850 feet                              | 400 feet | 200 feet           | 200 feet | 200 feet |
| Minimum tangent<br>between curves | 200 feet                              | 50 feet  | 100 feet           | 100 feet | 100 feet |
| Minimum grade                     | 0.004                                 | 0.004    | 0.004              | 0.004    | 0.004    |
| Maximum grade                     | 0.05*                                 | 0.05*    | 0.05*              | 0.05*    | 0.05*    |
| Pavement specifications           | As specified by the county engineer   |          |                    |          |          |

\*Grades exceeding five percent must be approved by the county engineer and township. Pavement may be required when permitted grade is exceeded.

(Ord. of 4-18-2017)

Cross reference(s)—Streets, roads, highways and other public places, Ch. 18

**Typical Cross Section Table 20-2. County and Township Road Standards**



**Sec. 20-194. Street construction specifications.**

Construction specifications for roads designated to be part of the county road system are based upon the intended ultimate use specified by their functional classification as set forth in the County transportation plan. Design standards for those streets are listed as follows:

- (1) All streets shall be graded to their full right-of-way and roadway compacted to 95 percent of proctor density.
- (2) All streets shall be surfaced over their traveled portion with a six-inch depth of aggregate, containing sufficient binder material for stabilizing and compacted to 95 percent of proctor density. Width of the traveled portion of the roadway shall be determined by the street's functional classification specifications as set forth in this chapter.
- (3) All streets so surfaced shall be sodded or seeded with grass to provide protection from erosion over that area lying between the right-of-way lines and the edge of the surfaced roadway.

- (4) Adequate provisions for the collection and disposal of surface water and stormwater shall be provided within the street right-of-way and in accordance with the provisions of Minn. Stats. ch. 160 and other applicable rules and ordinances.
- (5) All work and improvements listed under this section shall be done according to specifications of the county highway department and shall be subject to the recommendations, supervision and approval of the county engineer.
- (6) All accesses to state and county roads shall be in accordance with approved transportation plans and access guidelines adopted by the State Department of Transportation and the county.

(Ord. of 4-18-2017)

Cross reference(s)—Streets, roads, highways and other public places, Ch. 18

**Sec. 20-195. Township association road design standards and specifications.**

Street design standards for streets designated to be township roads shall be constructed, at a minimum, to the standards set forth in this section. Prior to acceptance and maintenance by the county townships, such streets shall have a right-of-way of at least 66 feet.

- (1) Dead-ends, turnarounds, circles: The right-of-way shall have a minimum radius of 60 feet; the outer circumference of the traffic bearing surface shall have a minimum radius of 50 feet.
- (2) The traffic bearing surface shall be as determined by the following Table 20-3

TABLE 20-3  
MINIMUM TOWNSHIP AND/OR PRIVATE STREET DESIGN STANDARDS

| Project ADT <sup>2</sup> | Lane Width <sup>3</sup> | Shoulder Width | Inslope | Recovery Area <sup>1</sup> | Surfacing          |
|--------------------------|-------------------------|----------------|---------|----------------------------|--------------------|
| 0-49                     | 11 feet                 | 1 foot         | 3:1     | 7 feet                     | Aggregate or paved |
| 50-149                   | 11 feet                 | 3 feet         | 4:1     | 9 feet                     | Aggregate or paved |
| 150-399                  | 12 feet                 | 4 feet         | 4:1     | 15 feet                    | Aggregate or paved |

<sup>1</sup>Obstacle-free area (measured from edge of traffic lane). Culverts with less than 27 inches vertical height allowed without protection in the recovery area.

<sup>2</sup>ADT = Average Daily Traffic

<sup>3</sup>The graded roadbed shall be adequate to provide a finish surface width for a seven-ton design.

- (3) Typical cross sections shall comply with that designated as "Typical Cross Section Table 20-2," unless otherwise authorized by the township and County Engineer.
- (4) The roadbed shall be built with structurally sound material free of organic deposits, wood and other objectionable material.
- (5) All streets shall be constructed with an inslope and backslopes to provide adequate ditch depth for snow storage and shall be backsloped in a manner to provide snow control. The roadbed shall be one

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- to two feet higher than the adjacent property. Sloping required beyond the right-of-way line shall be with easements.
- (6) Slopes greater than five percent shall be subject to review by the county and township board.
  - (7) Street drainage systems shall comply with the following standards:
    - a. A ditch bottom shall be built at least two feet below the street shoulder. The ditch shall have a minimum width of six feet.
    - b. The township board reserves the right to require developers to conduct an engineering review of drainage areas, proposed drainage features and erosion control measures.
    - c. Where culverts are deemed necessary by the township board, they shall have aprons, a minimum diameter of 15 inches and a minimum length which takes into account the depth of the ditch and the length of the inslope.
  - (8) If the traffic-bearing surface is gravel and/or crushed rock, the original construction shall consist of a minimum of six inches of material which meets state department of transportation class 5 requirements.
  - (9) If the traffic-bearing surface is bituminous or concrete, its construction shall, at a minimum, equal state highway specifications for a seven-ton road. The township board reserves the right to require nine-ton design when heavy loads and truck traffic are anticipated.
  - (10) The roadbed and intersections shall be designed in a manner to provide sight distance for the anticipated traffic speed.
  - (11) Traffic control devices shall be installed according to the Manual for Uniform Traffic Devices.
  - (12) The township board reserves the right to post streets to limit weight during various periods of the year.
  - (13) It shall be the responsibility of the developer to provide the township with maps of all underground utility installations which occupy or intersect the road right-of-way. The township shall be notified prior to infrastructure installations and must approve such installations.
  - (14) Consult individual townships to determine required occupancy of platted lots served by a given street prior to township acceptance of those streets.
  - (15) Consult individual townships regarding permitting requirements for private and public utilities in township street rights-of-way.

(Ord. of 4-18-2017)

### **Sec. 20-196. Alleys.**

- (a) Alleys shall be required in all commercial and industrial districts, except that the planning commission may waive this subsection requirement where the commercial or industrial district is designed as a comprehensive unit and adequate provisions for service access, off-street loading and unloading areas and parking space is a part of the overall development plan and fire safety.
- (b) Dead-end alleys are prohibited except where natural or other features make it impossible to continue them. Where dead-end alleys are unavoidable, they shall be provided with adequate turnaround facilities at the dead-end, as determined by the planning commission.
- (c) Alleys shall not be provided in residential areas unless a secondary means of access to certain property is necessary due to topography or other exceptional circumstances.
- (d) Design standards for alleys are as contained in Section 20-193.

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(Supp. No. 11)

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(Ord. of 4-18-2017)

Cross reference(s)—Streets, roads, highways and other public places, Ch. 18.

### **Sec. 20-197. Intersections.**

All intersections shall meet the minimum requirements of the Minnesota State Aid Road Design Manual and the following requirements:

- (1) All streets shall intersect at right angles or as close thereto as possible.
- (2) No street shall intersect another at an angle of less than 70 degrees.
- (3) More than two streets intersecting at the same location shall be prohibited.
- (4) Street jogs with centerline offsets of less than 150 feet shall be avoided.
- (5) When the planning commission finds it necessary, for reasons of safety and the protection of property, street intersections shall be rounded with a radius of 35 feet. The planning commission may permit comparable chords in lieu of the rounded corners.

(Ord. of 4-18-2017)

### **Sec. 20-198. Monuments.**

Durable monuments (iron rods or T bars) shall be placed at all lot and block corners, at all angle points in any line, at each end of all curves, and at such other points as may be required by the planning commission and/or the county engineer and shall also meet the following requirements:

- (1) All monuments shall be properly set flush with the ground by a licensed land surveyor and shall bear the license number on the cap.
- (2) The external boundaries of the plat, block corners, angle points and ends of curves shall be monumented in the field by monuments at least 18 inches long and one-half inch outside diameter.
- (3) All Lot corners and other points not mentioned above shall be monumented in the field by monuments at least 18 inches long and one-half inch outside diameter.
- (4) At least one monument on each plat shall include the state plane coordinate system, the county datum coordinate.

(Ord. of 4-18-2017)

### **Sec. 20-199. Signs and traffic control devices.**

Street name signs and traffic control devices shall be placed at all street corners and such other intermediate points as may be required by the Planning Commission and meet the following requirements:

- (1) All signs or other traffic control devices shall be installed as required by the Manual for Uniform Traffic Control Devices and as approved by the county engineer.
- (2) All signs or other traffic control devices shall be of a permanent nature, mounted upon metal posts and located at the intersections of the street right-of-way lines extended.
- (3) At intersections having four block corners it will be necessary to erect signs on two diagonal corners only.

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(Supp. No. 11)

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(Ord. of 4-18-2017)

**Sec. 20-200. Utilities.**

- (a) Electricity and telephone shall be provided to the lot line of each individual Lot. Municipal sewer, water and gas shall be provided to the lot line of each individual Lot where available, or as required per applicable intergovernmental annexation or orderly development agreements.
- (b) It shall be the responsibility of the subdivider or developer to contact utility companies to determine the availability of services and to make the necessary arrangements for their installation. The subdivider or developer shall submit to the planning commission at the final plat review written instruments from the appropriate utility companies showing that all necessary arrangements with such companies for installation of such utilities have been made.
- (c) Where a municipal or community type water, sewer and gas supply system is to be utilized, the subdivider or developer shall install the infrastructure and have such installation approved by the county engineer and/or civil engineer representing the township prior to recording the plat, or as alternative, financial assurances shall be posted to guarantee construction prior to recording of the final plat.
- (d) In the interest of uniform utility placement and consistent plat design, and to protect the public health and safety, underground utilities shall be placed as specified in the following:
  - (1) Underground telephone, television and electrical cables shall be placed within easements beyond the northerly and easterly right-of-way lines.
  - (2) Gas service lines shall be placed within easements beyond the southerly and westerly right-of-way lines.
  - (3) Water services lines shall be placed ten feet from the northerly and easterly right-of-way lines within the right-of-way.
  - (4) Sewer lines shall be placed ten feet from the southerly and westerly right-of-way lines within the right-of-way. If common (shared) water and sewer lines are installed within the right-of-way they shall be installed at the above-referenced locations.
  - (5) Exceptions to infrastructure placement as specified in this section must be approved by the county engineer.

(Ord. of 4-18-2017)

Cross reference(s)—Utilities, Ch. 22

**Sec. 20-201. Blocks.**

The length, width and shape of blocks shall be determined with due regard to:

- (1) The provisions of adequate building sites suitable to the particular needs of the type of use contemplated.
- (2) Zoning requirements as to lot size and dimensions.
- (3) Needs for convenient access, circulation, control and safety of traffic.
- (4) Limitations and opportunities afforded by topography and other natural features.

Pedestrian ways not less than ten feet wide shall be required where deemed essential to provide circulation of access to schools, playgrounds, shopping centers, transportation and other community facilities.

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(Supp. No. 11)

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(Ord. of 4-18-2017)

**Sec. 20-202. Lots.**

- (a) The size, width, shape and orientation of lots and buildings setback line shall be appropriate for the type of development and use contemplated.
- (b) Residential lot dimensions are set forth in Chapter 24, pertaining to zoning, unless otherwise specified in this chapter.
- (c) Corner lots for residential use shall have additional width to permit appropriate building setback from, and orientation to, both streets.
- (d) Side lot lines shall be as near to right angles or radial to street lines as possible.
- (e) Every lot shall lie adjacent to a street, thus providing access for fire protection, utilities and other necessary services.
- (f) Newly created lot lines shall meet all required setbacks from existing buildings as specified by the zoning district in which the proposed Lot is being created. Lot lines shall only be surveyed through buildings in planned unit developments when zero clearance lot lines are permitted by the zoning district in which the lot is being created.
- (g) Flag lots or panhandle lots shall not be utilized to provide access to new vacant lots. Flag lots may be utilized as a means of preserving agricultural land when splitting off existing building sites where the setback distance from the road exceeds 250 feet. Such access must extend from the lot to a publicly dedicated road or highway, must be included as a portion of the lot, must be at least 33 feet wide, and may not be counted as buildable lot area.
- (h) Lots shall contain the minimum buildable area as defined in this chapter. Lots used for residential uses shall contain a minimum buildable lot area of one acre. The required buildable area must be free from rights-of-way, waterways, easements, ravines or other physical features which would preclude use of the total lot area.
- (i) Increase of minimum lot size may be required by the planning commission if determined to be necessary by the county sanitarian for on-site sewage treatment systems. A minimum of two suitable locations for a private septic system shall be identified on a residential lot before a building permit is issued.

(Ord. of 4-18-2017)

**Sec. 20-203. Easements.**

- (a) Easements for public utilities, including drainage areas, may be required by the planning commission. Where such easements are determined to be necessary, they shall be provided along the rear and side lot lines and shall be ten feet in width. When front lot easements are provided, they shall be located outside the right-of-way adjacent to the right-of-way line.
- (b) Where a watercourse, drainageway channel or stream traverse a plat, there shall be provided a stormwater easement for drainage right-of-way conforming substantially to the lines of such watercourse. If it is deemed advisable by the planning commission, such watercourse or drainageway may be reestablished to conform to the proposed street pattern, in which case suitable storm drainage facilities shall be installed as designed by the engineer of record and approved by the county engineer.

(Ord. of 4-18-2017)

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**Sec. 20-204. Dedication; generally.**

- (a) Upon consideration of the particular type of development proposed in the plat, and especially in large-scale neighborhood unit developments, the planning commission may require the dedication or reservation of areas or sites suitable to the needs created by such development for schools, parks and other neighborhood purposes. If such parcels are not dedicated to the county, the planning commission may recommend they be reserved by covenant or deed restriction for the common use of all property owners in the plat.
- (b) All new plats shall either dedicate land for public use such as parks, playgrounds or other open space use, or, if not an appropriate site for such dedication, may, as an alternative, make a payment to the county's dedicated fund for maintenance or acquisition of park lands. Dedication fees shall only be assessed against newly created vacant residential lots. The payment shall be an amount equal to the value of the required dedication and shall be calculated based on five percent of the total gross area of the plat.
- (c) The term "new Plat" shall not apply where property lines are being surveyed for the purposes of correcting previous descriptions, situations where individuals are buying and/or selling land only to increase their yard space for individual properties, or the re-platting of an area upon which a previous dedication was made.
- (d) Where a proposed park, playground or open space as shown on the comprehensive plan or in the county park plan is located in whole or in part of a plat, the board of commissioners may require the dedication of such area if the board of commissioners deems such requirements to be reasonable.
- (e) When the planning commission determines that the plat is not designated as an area for a playground or park in the comprehensive plan or county park plan, the owner or subdivider, in lieu of property dedication, shall pay to the county a sum of money equal to the required dedication percentage, multiplied by the gross value of the plat.
- (f) The gross unimproved value of the plat shall be determined in accordance with the intended use of the property. The planning commission shall request the county assessor to establish a market value based on the proposed use minus any improvements. Payments to the county for required open space dedication shall be made by the property owner or subdivider at the time of final platting. Where money in lieu of land is to be paid to the county, such money shall be paid in a manner established by policy of the board of commissioners. In no case shall the plat be signed or building permit issued for any lot within the plat until such transfer of land or payment in lieu of land has been completed. Any money paid to the county shall be placed in a special fund to be used for the acquisition of land for parks and playgrounds only.

(Ord. of 4-18-2017)

**Sec. 20-205. Parks, school and public use sites.**

When a park, school or other public use site shown in the comprehensive plan or official map of the county lies wholly or partly within the boundaries of the proposed Plat, and such park, school or other public use site is not dedicated for public use to the county, the planning commission may recommend that the area be reserved for acquisition by the county for a period of 1½ years.

(Ord. of 4-18-2017)

Cross reference(s)—Zoning, Ch. 24.

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**Sec. 20-206. Dedication of street, public utility and environmental corridor easements.**

- (a) When it is determined that additional public street easements are required along existing public roads in order to improve drainage or roadway safety, the owner shall be required to dedicate such necessary street, and/or drainage easements, as a condition of plat approval.
- (b) When public utility easements and/or environmental corridor easements are required as a result of a metes and bounds plat, the owner shall dedicate such necessary easements as a condition of plat.

(Ord. of 4-18-2017)

Cross reference(s)—Environment, Ch. 6; streets, roads, highways and other public places, Ch. 18; utilities, Ch. 22.

**Sec. 20-207. Vacations of platted easements, public streets, alleys and highways.**

- (a) The board of commissioners, with the assistance of the planning commission, shall have power to vacate or discontinue platted easements, public streets, alleys or highways, or any portion thereof, outside of incorporated areas within the County except as authorized by state statute.
- (b) No vacation or discontinuance shall be granted or ordered by the board of commissioners unless application is made to the zoning administrator. Application shall include a verified vacation petition and other required information in acceptable format. The petition shall include the signature of one or more of the owners of real property on that portion of such platted easement, street, alley or highway proposed to be vacated, or the vacation may be requested by the affected township, or the county's planning department. The petition shall state the justification for the vacation request and briefly describe the platted easement, street, alley, highway, or portion thereof desired to be vacated.
- (c) In order to determine whether utilities are located in the easement or right-of-way requested for vacation, it shall be the responsibility of the applicant to have all utility companies review the request for vacation to determine whether utilities are located in such easement, street, alley or highway right-of-way. A map of the proposed easement or right-of-way shall be taken to the utilities, indication made by the affected utility as to whether utilities are located in such easement or right-of-way, and returned to the zoning administrator to become part of the vacation application.
- (d) Upon the presentation of the petition of vacation and other required information, the zoning administrator shall determine whether the application is complete. If complete, the application shall be forwarded to the planning commission for consideration. After publication of required notification, the planning commission will hold a hearing on the request and make a recommendation to the board of commissioners. The board of commissioners upon receiving the recommendation, after hearing the petition, may by resolution passed by a majority of its members, grant the petition and order the platted easement, street, alley or highway vacated and discontinued.

(Ord. of 4-18-2017)

**Secs. 20-208—20-240. Reserved.**

***ARTICLE V. REQUIRED PLANS, COST ESTIMATES AND PERFORMANCE BONDS;  
FINANCIAL ASSURANCES***

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**Sec. 20-241. Engineering plans for required improvements and itemized cost estimates.**

- (a) Street plans and profiles shall be drawn with black ink on standard highway plan and profile linen. Improvement plans and an itemized cost estimate for all required improvements must be submitted with the final plat for review by the county engineer to determine adequacy of design and to verify amount of financial assurance.
- (b) Improvement plans and itemized cost estimates must include, but are not limited to: proposed roads, drainage and erosion control structures and utilities, including municipal or community sewer and/or water systems.
- (c) Street plans and profiles shall be drawn to a scale not greater than one inch equals 100 feet horizontally and one inch equals ten feet vertically, and shall show original and proposed centerline elevations, all curve data, street orientation and a typical cross section for each street.
- (d) Engineering plans shall be signed by a registered professional engineer, licensed in the state.

(Ord. of 4-18-2017)

**Sec. 20-242. Performance bonds; financial assurances.**

- (a) In the interest of good development and to protect the taxpayers and future purchasers of residential, commercial and industrial properties, it shall be the policy of the board of commissioners to require that all dedicated streets and other public lands be improved to the degree stated in this chapter prior to acceptance and recording of final plat and the building of structures thereon.
- (b) The county taxpayer services department may accept a final plat for recording where the owner and/or developer of the plat furnished a certified check, surety bond or other method of financial assurance acceptable to the board of commissioners, in sufficient amount to cover the construction costs of improvements required by this chapter, and/or agreed to by the subdivider. All improvements allowed to be deferred via this section shall be constructed within two years unless an extension of time is applied for and granted by the planning commission and board of commissioners, as set forth in section 20-146. New or adjusted engineer's cost estimates shall be reviewed by the county engineer to determine whether they adequately reflect current construction costs when extensions of time are requested, or at any other time deemed appropriate by the county engineer.
- (c) The subdivider's engineer of record shall present a final itemized cost estimate for required and proposed improvements to the planning department with the final plat. Such engineer's cost estimate shall be forwarded to the county engineer for review and verification of costs. If the estimate for required improvements is deemed acceptable the county engineer shall certify the amount to the board of commissioners.
- (d) The amount of such certified check or surety bond shall be determined by the county engineer and the stipulated period covered by such bond shall generally be for a period of one year. In no case, however, shall the period of performance bonds exceed two years.
- (e) The subdivider may make application for release of portions of their performance bond, or other approved method of financial assurance, as required improvements are completed and certified to the county engineer. Such request and certification shall be by subdivider's engineer of record. Application for release of portions of the bonded indebtedness by the engineer of record shall state the extent of construction completed and amount to be released. Certification shall be accomplished via submission of as-built plans and such testing data as required by the county engineer. Releases shall be in increments approximately equal to 25 percent of the bonded indebtedness.

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(Ord. of 4-18-2017)

**Secs. 20-243—20-270. Reserved.**

**ARTICLE VI. FORMS**

**Sec. 20-271. Required.**

The forms listed in this article shall be completed as a required part of the platting procedure.

(Ord. of 4-18-2017)

**Sec. 20-272. Preliminary title opinion.**

Blue Earth County Board of Commissioners  
Blue Earth County Courthouse  
204 South Fifth Street  
P.O. Box 8608  
Mankato, Minnesota 56002-8608

|     |            |
|-----|------------|
| RE: | Plat of    |
|     | Subdivider |

Commissioners:

PRELIMINARY OPINION

I hereby certify that I have examined the above-described plat including the signatories thereon and an abstract or certificate of title consisting of entries \_\_\_\_\_ through \_\_\_\_\_ inclusive, last certified by \_\_\_\_\_ to the hour of 8:00 a.m. on \_\_\_\_\_. From such examination I conclude that good title in fee simple absolute is in the owner so as to vest in the public those right-of-way rights and easement rights as in the plat, subject to the following:

- 1.
- 2.
- 3.

which shall be cured prior to the recording of the plat.

I further agree to furnish the Final Title Opinion prior to the recording of the plat as required by the Subdivision Ordinance of Blue Earth County, Minnesota.

Sincerely,

\_\_\_\_\_  
Attorney at Law

(Ord. of 4-18-2017)

**Sec. 20-273. Final title opinion.**

Blue Earth County Board of Commissioners  
Blue Earth County Courthouse  
204 South Fifth Street  
P.O. Box 8608  
Mankato, Minnesota 56002-8608

|     |            |
|-----|------------|
| RE: | Plat of    |
|     | Subdivider |

Commissioners:

**FINAL OPINION**

I hereby certify that I have examined all records relating to the above-described Plat in the Blue Earth County Land Taxpayer Services Department from the date of the Abstract or Certificate of Title to \_\_\_\_\_, today's date. From such examination I conclude:

1. That all defects cited in the Preliminary Opinion have been cured;
2. That as of today's date, good record title in fee simple absolute was in the owner; and
3. That the public is vested with those right-of-way rights and easement rights as indicated in the Plat.

Sincerely,

\_\_\_\_\_  
Attorney at Law

**Sec. 20-274. Format for required signature blocks.**

(a) *Instrument of dedication.*

Know all men present that we, \_\_\_\_\_ and \_\_\_\_\_, (married to each other), (single person), (others), owners of the following described property, to wit:

Containing \_\_\_\_ acres.

do hereby declare that we have caused the above-described property to be surveyed and platted and monuments to be set, that we have named such platted area \_\_\_\_\_, and that we dedicate to the public use the highway and easements shown hereon.

|         |                           |                   |
|---------|---------------------------|-------------------|
| SIGNED: | (Spouse), (Single Person) | (Spouse), (Other) |
|---------|---------------------------|-------------------|

(b) *Notary certificate.*

|                       |    |
|-----------------------|----|
| State of Minnesota)   |    |
|                       | SS |
| County of Blue Earth) |    |

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On this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me a Notary Public within and for said County, personally appeared \_\_\_\_\_ and \_\_\_\_\_, (married to each other), (single person), (other), known to me to be the persons named in the foregoing instrument and who did acknowledge the same to be their free act and deed.

|  |               |
|--|---------------|
|  | Notary Public |
|--|---------------|

(c) *Surveyor's certificate.*

I, \_\_\_\_\_, Professional Land Surveyor, do hereby certify that I have surveyed or directly supervised the survey of the property described on this plat; prepared this plat or directly supervised the preparation of this plat \_\_\_\_\_; that this plat is a correct representation of the survey; that all mathematical data and labels are correctly designated on this plat; that all monuments indicated on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

|  |                        |
|--|------------------------|
|  | Minnesota Registry No. |
|--|------------------------|

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me a Notary Public in and for said County, personally appeared \_\_\_\_\_, and being duly sworn did say that he has executed the foregoing instrument.

|  |               |
|--|---------------|
|  | Notary Public |
|--|---------------|

(d) *Planning commission.*

Be it known that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Planning Commission of Blue Earth County did duly review and approve this plat of (name of plat).

|             |           |
|-------------|-----------|
| Chairperson | Secretary |
|-------------|-----------|

(e) *County engineer.*

Be it known that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the County Engineer of Blue Earth County did duly review this plat and improvement plans, and hereby confirms that: the submitted plans meet minimum requirements of the Blue Earth County Land Division Ordinance and the Engineers' itemized cost estimate and posted financial assurances are adequate to cover materials and installation costs of all required improvements

OR

The required infrastructure has been designed and installed according to the minimum standards contained within the Blue Earth Land Division Ordinance.

\_\_\_\_\_  
County Engineer

(f) *County sanitarian.*

Be it known that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the County Sanitarian of the County did duly review this plat and confirmed that two suitable on-site sewage treatment sites exist on each individual lot based on

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information submitted by \_\_\_\_\_, an MPCA Certified on-site septic system designer, or that sufficient municipal services are provided to each Lot.

\_\_\_\_\_  
County Sanitarian

(g) *County board of commissioners.*

Be it known that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the County Commissioners of Blue Earth County approved this Plat of (name of plat), and said Plat is in compliance with the provisions of Minnesota Statutes, Section 505.03, Subd.2..

|             |                      |
|-------------|----------------------|
| Chairperson | County Administrator |
|-------------|----------------------|

(h) *Title opinion.*

I, \_\_\_\_\_, Licensed Attorney, State of Minnesota, do hereby certify that as of today's date, the owners as indicated hereon have good record title in fee simple absolute and that the public is vested with those right-of-way rights and easement rights as indicated in the plat.

\_\_\_\_\_  
Attorney

(i) *Taxpayer Services Department.*

I hereby certify that there [are] no delinquent taxes and/or delinquent assessments, that the current taxes have been paid, and that transfer has been entered on the land described herein on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

|  |   |
|--|---|
|  | Assistant Administrator for<br>Taxpayer Services Department |
|--|---|

(j) *County recorder.*

County Recorder, County of Blue Earth, State of Minnesota

I hereby certify that this Plat of, \_\_\_\_\_, was filed in the office of the County Recorder for public record on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_M., and that it was duly filed in Book \_\_\_\_\_ of Plats, Page \_\_\_\_\_, as Document Number \_\_\_\_\_.

|  |                 |
|--|-----------------|
|  | County Recorder |
|--|-----------------|

(Ord. of 4-18-2017)



## Chapter 24 ZONING<sup>25</sup>

### ARTICLE I. IN GENERAL

#### Sec. 24-1. Purpose of chapter.

- (a) This chapter is for the purpose of, and pursuant to the authority conferred by the state in Minn. Stats. § 394.21 et seq.:
- (1) *To promote and protect the health, safety and general welfare.* To prevent the overcrowding of the land and undue congestion of population, by providing adequate light, air and convenience of access to property, by regulating the use of land, buildings and the bulk of structures in relationship to surrounding properties.
  - (2) *To provide for the orderly development of the county.* To protect and conserve the character and the social and economic stability of agricultural, residential, commercial, industrial and other use areas in the county and promote their orderly development.
  - (3) *To ensure the appropriate use of land.* To secure the most appropriate use of land within the county.
  - (4) *To ensure adequate utilities and transportation.* To facilitate adequate and economical provision of transportation, water supply and sewage disposal.
  - (5) *To ensure adequate public facilities.* To provide for general location of schools, recreation facilities and other public requirements.
  - (6) *To ensure the conservation of natural resources.* To provide policy and regulations to conserve the natural resources of the county.
  - (7) *To prevent pollution.* To provide policy and regulations to minimize the potential for environmental pollution.
- (b) The purpose of this chapter is to promote the health, safety and general welfare of the unincorporated areas of the county by:
- (1) Regulating the use of land and building(s) for trade, commerce, industry, residence and other purposes;
  - (2) Regulating water supply and sewage disposal facilities;

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<sup>25</sup>Editor's note(s)—An ord. adopted on Feb. 28, 2012, amended and restated former Ch. 24, Arts. I—X, in its entirety. See the Code Comparative Table at the back of this volume for a listing of ordinances that amended former Ch. 24.

Cross reference(s)—Environment, ch. 6; floods, ch. 8; zoning administrator, § 8-71 et seq.; establishment of zoning districts for flood damage prevention, § 8-101 et seq.; mass gatherings, ch. 10; shoreland zoning, ch. 14; nonconforming uses, § 14-151 et seq.; streets, roads, highways and other public places, ch. 18; land division, ch. 20.

State law reference(s)—Authority to carry on county planning and zoning activities, Minn. Stats. § 394.21 et seq.

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- (3) Ensuring that new development does not increase the runoff rate or degrade water quality leaving the property;
  - (4) Establishing standards for the height and size of buildings, the size of yards, courts and other open spaces and the density of populations;
  - (5) Creating districts for such purposes and establishing the boundaries thereof; by providing for changes in regulations, restrictions and boundaries of such districts; by defining certain terms used in this chapter; and
  - (6) Providing for enforcement and administration, and imposing penalties for the violation of this chapter.

(Ord. of 2-28-2012)

### **Sec. 24-2. Title and short title.**

- (a) *Title.* Provided by Minn. Stats. §§ 394.21 to 394.37 inclusive, the board of commissioners ordains this chapter (the Blue Earth County Land Use Ordinance).
- (b) *Short title.* This chapter shall be known and may be cited and referred to as the "Blue Earth County Land Use Ordinance." When referred to in this chapter, it shall be known as this chapter.

(Ord. of 2-28-2012)

### **Sec. 24-3. Definitions and word usage.**

- (a) *Word usage.* The word "building" shall include the word "structure"; the word "lot" shall include the words "parcel" and "plot."
- (b) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building* means a building that is clearly incidental or accessory to the principal use of a lot or building located on the same lot.

*Accessory use* means a use clearly incidental or accessory to the principal use of a lot or building located on the same lot as the principal use.

*Agent.* See "applicant."

*Agency* means the Minnesota Pollution Control Agency as established in Minn. Stats. ch. 116.

*Agriculture/agricultural use* means a use primarily related to the cultivation of crops, horticulture, viticulture, forestry, logging, livestock production, aquaculture, bee keeping or other agricultural practices. The definition includes the sale of raw products, but not processing or sale of processed goods.

*Agricultural building* means a building used for an agricultural use.

*Animal unit (A.U.)* 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 1,000-pound slaughter steer or heifer as stated in chapter 6, article II, the Blue Earth County Livestock Manure Management Ordinance of this Code.

*Applicant* means a person, agent, corporation, or other legal entity recognized by law who applies for a variance, zoning permit, conditional use permit, or other land use permit.

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*Approved/approval* means the formal authorization by a local government unit of an activity described in an application.

*Attorney* means an attorney employed or contracted by the county.

*Bed and breakfast/inn* means an owner-occupied single family dwelling unit in which not more than four rooms are rented on a nightly basis for a period of seven or fewer consecutive days. Food service shall be limited to breakfast.

*Best management practices* means the most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.

*Biosolids* means the nutrient-rich organic materials resulting from the treatment of sewage sludge (the name for the solid, semisolid or liquid untreated residue generated during the treatment of domestic sewage in a treatment facility). When treated and processed, sewage sludge becomes biosolids which can be safely recycled and applied as fertilizer to sustainably improve and maintain productive soils and stimulate plant growth.

*Block* means a tract of land consisting of one or more lots, as identified on the plat, and bounded by plat boundaries, public ways, outlots, parks, or bodies of water (Minn. Stats. § 505).

*Bluff* means a topographic feature such as a hill, cliff, or embankment meeting all of the following criteria.

- (1) The slope rises at least 15 feet from the toe of the bluff to the top of the bluff.
- (2) The grade of the slope from the toe of the bluff to the top of the bluff averages 30 percent or greater.

*Bluff, toe* means the lower point of a bluff where the slope averages less than 18 percent.

*Bluff, top* means the higher point of a bluff where the slope averages less than 18 percent.

*Bluff impact zone* means land located within 30 feet from the top of a bluff and land located within five feet from the toe of the bluff. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

*Board of adjustment* means the county board of adjustment as described in Minn. Stats. ch. 394.

*Board of commissioners, county board* means the Blue Earth County Board of Commissioners.

*Buildable area* means a contiguous portion of a lot that is suitable for the location of the primary structure and that excludes all existing and proposed easements, setback areas for principal structures, wetlands, floodplains, flag lots or steep slopes that are unbuildable under this chapter, and other unbuildable areas.

*Buildable lot* means a lot of record, or other lot, tract or parcel legally recorded with the county recorder that meets the requirements of the code and which has frontage on an improved and maintained public road. An outlot is not a buildable lot for residential purposes.

*Building* means anything constructed or erected, which requires permanent or temporary location on the ground, for the shelter, support or enclosure of persons, animals, chattel or property of any kind.

*Building height* means the vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the top of the highest beams on a flat or shed roof, to the deck level on a mansard roof, or to the mean height between eaves and ridge for all other roofs.

*Building/structure setback line* means a line within a lot defining the minimum distance between the building and any of the following: right-of-way, centerline of a road, bluff, water feature, feedlot, sewage treatment system, well(s) or property lines in which buildings or structures may not be placed.

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*Bulk and density controls* means those regulations or controls which specify the setback lines, lot size, building height, maximum ground coverage, impervious surface, lot width and lot depth.

*Campground* means any area, whether privately or publicly owned, used on a daily, nightly, or longer basis for the placement of three or more camping units for the purpose of people occupying the unit on an overnight basis.

*Camping unit(s)* means any tent, trailer, cabin, lean-to, recreational vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

*Cemetery* means a discrete, distinct or specific location that is known to contain or intended to be used for the internment of human remains pursuant to Minn. Stats. ch. 307.

*Certificate of zoning compliance* means a letter from the Blue Earth County Zoning Department to the property owner stating that the specified use of the property conforms to the standards in the Blue Earth County Code of Ordinances.

*Church* means a building where persons regularly assemble for religious service and which is maintained and controlled by an organized group for worship.

*Code* means the Code of Ordinances, Blue Earth County, Minnesota, as designated in section 1-1.

*Common interest community or condominium* means contiguous or noncontiguous real estate within the state that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership of occupancy, to pay for real estate taxes levied against; insurance premiums payable with respect to; maintenance of; or construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies (hereafter referred to as a "CIC").

- (1) *Condominium*. A CIC in which portions of the real estate are designated as units, the remainder of the real estate is designated for common ownership solely by the owners of the units, and undivided interests in the common elements are vested in the unit owners.
- (2) *Cooperative*. A CIC in which the real estate is owned by an association each of whose members is entitled by virtue of the member's ownership interest in the association to a proprietary lease.
- (3) *Flexible CIC*. A CIC to which additional real estate may be added.
- (4) *Leasehold CIC*. A CIC in which all or a portion of the real estate is subject to a lease the expiration of which will terminate the CIC or reduce its size.
- (5) *Planned community*. A CIC that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

*Compost facility* means a type of solid waste management facility that is used to compost or co-compost solid waste, including all structures or processing equipment used to control drainage, collect and treat leachate, and storage areas for the incoming waste, the final product, and residuals resulting from the composting process.

*Composting* means the controlled microbial degradation of organic waste to yield a humus like product.

*Comprehensive plan* means the policies, statements, goals and interrelated plans for public and private land and water use, transportation and community facilities, including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for future development of the county or any portion of the county. The document is titled "Blue Earth County Land Use Plan", and was adopted June 30, 1998, as amended, or as hereafter revised or superseded by new comprehensive plans.

*Conditional use* means a land use as defined by this chapter that would not be generally appropriate, but may be allowed with restrictions which are site and use specific as provided by official controls upon finding that:

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- (1) Certain conditions as detailed in this chapter exist.
  - (2) The use or development conforms to the land use plan of the county.
  - (3) The use is compatible with the existing neighborhood.

*Conditional use permit* means a permit issued by the board of commissioners in accordance with procedures specified in this chapter which would enable the board of commissioners to assign site specific conditions and dimensions to a proposed use.

*Construction permit* means a permit issued by the zoning administrator pursuant to procedures specified in this chapter for the purpose of moving, altering or constructing a structure in the county.

*County* means the county, the board of commissioners, and its representatives who are authorized by the board of commissioners to administer and enforce this chapter.

*County recorder* means the Blue Earth County Recorder when referred to in this chapter.

*Covenants* means contracts entered into between private parties which constitutes a restriction on the use of all private property within a subdivision for the benefit of property owners to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

*Crown of a county ditch* means the top edge of the constructed channel or the crown of the leveled spoil bank, whichever is the greater for a public drainage ditch as described in Minn. Stats. § 103E.021, as amended. A cross section drawing of the crown described in Minn. Stats. § 103E.021 is available in the Minnesota Public Drainage Manual, as amended.

*Cul-de-sac* means a street with a single means of ingress/egress and having a turnaround at the end. A turnaround may be in the form of a circular "bubble" of an impervious surface or an internal "looped" street.

*Deck* means a horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site, and at any point extending more than one foot above ground.

*Delineated wetland boundary* means wetland boundaries identified in a wetland delineation or investigation report approved by the Wetland Conservation Act (WCA) Local Government Unit. Only wetland boundaries that have been approved and issued a WCA Notice of Decision shall be acceptable for use in a site plan.

*Demolition debris* means solid waste resulting from the demolition of buildings, roads, and other structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts. Demolition debris does not include asbestos wastes or hazardous wastes.

*Demolition debris land disposal facility* means a type of solid waste management facility that is used to dispose of demolition debris.

*Depth of rear yard* means the average horizontal distance between the rear line of the building and the centerline of an alley, where an alley exists, otherwise a rear lot line.

*Development right* means the right to construct a single-family dwelling.

*District* means a section of the county for which the regulations governing the height, area, density, bulk, and use of buildings and premises are the same as delineated on the land use district map.

*Dwelling* means a building or its portion, designed exclusively for residential occupancy; the term does not include hotels, motels, tents, tent trailers, travel trailers or recreational vehicles.

*Dwelling, multiple* means a dwelling designed exclusively for occupancy by two or more families living independently of each other. The term includes double bungalows, duplexes, triplex and quad units.

*Dwelling, single-family* means a detached building designed exclusively for occupancy by one family.

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*Easement* means a grant by an owner of land for a specific use by persons other than the owner that must be recorded.

*Electronic device(s)* means any device containing a video display device (VDD), cathode ray tube (CRT) or (a) circuit board(s) as a major component of its primary functionality. Electronic devices include, but are not limited to: televisions, computer monitors, computers, computer accessory devices, VCR, DVR and DVD players, fax machines, audio equipment such as radios, stereos, record, tape and CD players, computer and video game terminals, and telecommunication equipment.

*Electronic message sign* means a sign whose message may be changed at intervals by electronic process or remote control and whose only movement is the periodic changing of information having a constant light level.

*Essential services* means overhead or underground electric, gas, communication, hydrocarbon, steam or water transmission or distribution systems and structures, by public utilities or governmental departments, or as are required for protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection herewith, but not including buildings.

*Excavation* means any artificial alteration of the earth, excavated or made by the removal from the natural surface of the earth of soil, sand, gravel, stone or other matter.

*Expansion, enlargement, or intensification* means any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool, any improvement that would allow the land to be more intensely developed, any movement of operations to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of the non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the planning agency.

*Extractive use* means the use of land for surface or subsurface removal of sand, black dirt, clay, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minn. Stats. §§ 93.44 to 93.51.

*Family* means any number of individuals related by blood, marriage, adoption or foster care, or not more than five persons not so related, maintaining a common household and using common cooking and kitchen facilities.

*Farm* means a tract of land used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such farms may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm.

*Farm winery* means a winery operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, or other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota.

*Feedlot* means a lot or building, or combination of contiguous lots and buildings, intended for the confined feeding, breeding, raising or holding of animals, 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 parts, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and domesticated animal zoos, shall be considered to be animal feedlots. Pastures shall not be considered to be animal feedlots.

*Filling* means any soil, earth, sand, gravel, rock or any similar material deposited, placed, pushed, pulled or transported and shall include the conditions resulting there from.

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*Firing range, indoor* means a target range used for target shooting, training, or for any other use involving the discharge of handguns or other firearms, which is open to members or the general public upon payment of a fee, and which is located within the confines of a building.

*Firing range, outdoor*, means a range used for target, trap or skeet shooting, training or for any other use involving the discharge of handguns or other firearms, which is open to members or the general public upon payment of a fee.

*Flashing sign* means any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information shall not be considered a flashing sign.

*Flood* means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in inundation of normally dry areas.

*Flood frequency* means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

*Flood fringe* means that portion of the floodplain outside of the floodway.

*Floodplain* means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

*Floodproofing* means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

*Floodway* means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

*Golf course* means a tract of land laid out for at least nine holes for playing the game of golf that may include a snack bar, pro shop, and practice facilities. This does not include dining facilities or a clubhouse.

*Government lot* means the fractional part of a section (public land survey) protracted by office procedures from field notes and designated by boundary limits, area and number on the township plat. A typical U.S. patent description could be: Government Lot 3 in Section 24 Township 109 North Range 26 West.

*Grading* means changing the natural or existing topography of the land.

*Greenhouse* means a building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants.

*Ground sign* means a freestanding sign, including the structure that is needed to support it.

*Hazardous waste/materials* means any waste, materials or products that cannot be handled by routine management techniques due to the potential harm to human health or the environment. Categories include, but are not limited to, flammables, oxidizers, poisons, irritants and corrosives.

*Home occupation* means any occupation of a service character for others which is clearly secondary to the main use of the premises as a dwelling place and as set forth in section 24-326.

*Illuminated sign* means a sign that is lighted by an exterior or interior light source.

*Impervious surface* means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, decks, sidewalks, patios, parking lots, storage areas, and concrete, asphalt or gravel driveways.

*Improved road/street* means any road or street that complies with state, county or township standards.

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*Interim use* means a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

*Interim use permit* means a permit issued by the board of commissioners for a temporary use of a property in accordance with procedures specified in this chapter which would enable the board of commissioners to assign site specific conditions to a proposed use.

*Joint identification sign* means a sign which serves as common or collective identification for a group of persons or businesses operating on the same lot (e.g., shopping center, office complex, etc.). Such sign may name the persons or businesses.

*Junkyard* means land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled including, but not limited to, electronic devices, scrap metal, rags, paper, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or other vehicles. The unenclosed storage of three or more inoperable and/or unlicensed vehicles or trailers; or any major appliances as defined by Minn. Stats. § 115A.03 subd. 17A; for a period of three months shall constitute a junkyard.

*Kennel* means a place where four or more dogs or four or more cats, or a combination of both, over four months of age are boarded, bred or offered for sale.

*Land disposal facility* means a type of solid waste management facility that means any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land.

*Land reclamation/land restoration* means the process of reestablishing acceptable topography, (i.e. slopes, vegetative cover, soil stability) and conditions appropriate to the subsequent reuse of the land.

*Land use development application* means, but is not limited to, applications for the following: construction permits, demolition permits, shoreland alteration permits, vegetative alteration permits, topographic alterations permits, conditional use permits, interim use permits, amendments to this chapter, variances from the provisions of this chapter, and the subdivision of real estate. The application is not complete and will not be accepted by the zoning administrator unless all fees are paid, preliminary reviews and approvals completed, submitted with associated supporting information and documents, and such other information as required by the zoning administrator.

*Large solar energy system* means a solar array or system with a power capacity equal to or greater than 100 kilowatts.

*Linear frontage* means that street frontage designated by the mailing address.

*Logging* means the cutting of timber on any private land of one acre or more for the major purpose of selling the timber for profit. This shall not include the selective cutting of trees by the property owner for the purpose of removing dead, dying or diseased trees or harvesting timber for firewood.

*Lot* means a designated parcel of land established by plat or subdivision adequate for occupancy by a use permitted in this chapter and providing sufficient area required for minimum open space and appurtenant facilities as required by this chapter (Minn. Stats. ch. 505).

*Lot, corner* means a lot situated at the junction of, and abutting, intersecting streets.

*Lot, coverage* means the area covered by the primary and all accessory buildings.

*Lot, depth* means the shortest horizontal distance between the front line and the rear lot line measured at a 90-degree angle from the street right-of-way and within the lot boundaries.

*Lot, multiple frontage* means a lot having frontage on two or more streets.

*Lot, width* means the shortest distance between the lot lines measured at the building setback line and right angles to the lot depth.



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*Lot area* means the area located within the lot lines. The lot area must conform to lot area standards as stated in this chapter. Contiguous lot area must be free from rights-of-way, waterways, easements, ravines or other physical features which would preclude use of the required lot area.

*Lot frontage, front* means that portion of a lot boundary abutting the street right-of-way from which the lot is addressed.

*Lot lines* means the lines bounding a lot.

*Lot of record* means a lot that exists as shown or described on a plat or deed in the records of the local registry of deeds (Blue Earth County Taxpayer Services) as of a particular date.

*Manufactured home/mobile home* means a structure, transportable in one or more sections, which in the transportable mode is eight feet or more in width or 40 feet or more in length, or when erected on a site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets the requirements with respect to which the manufacturer voluntarily files a certificate required by the secretary and complies with the standards established under Minn. Stats. ch. 327. The term does not include recreational vehicles.

*Manufactured home, derelict* means any pre-code manufactured home or manufactured home that no longer complies with the Minnesota Manufactured Home Code. This definition is applicable when said manufactured home is parked, stored, or abandoned and when it is no longer fit for (or being used for) human habitation.

*Manufactured home park* means a contiguous parcel of land which has been planned for the placement of two or more manufactured homes or manufactured home lots.

*Marquee, awning and canopy signs* means any message or identification which is affixed to or part of a marquee, awning or canopy.

*Metes and bounds* means a method of describing land by measure of length (metes) of the boundary lines (bounds). The most common method is to recite direction and length of each line as one would walk around the perimeter. In general the "metes" and "bounds" can be recited by reference to record, natural or artificial monuments at the corners; and record, natural or cultural boundary lines.

*Motel/hotel* means a building or group of buildings used primarily for the temporary residence of motorists or travelers.

*Municipal solid waste combustor ash land disposal facility* means a type of solid waste management facility that is used to dispose of municipal solid waste combustor ash in or on the land.

*Municipal utilities* means infrastructure required by a city when properties are annexed into a city, or infrastructure available from a township or other utility district such as a sanitary sewer district.

*Noncompliant septic.* As defined in the Blue Earth County Onsite Sewage Treatment Ordinance Chapter 6.

*Nonconformity* means any land use, structure, physical form of land development, lot of record or sign that is not in full compliance with the regulations of this ordinance and either:

- (1) Was legally established before the effective date of the ordinance provision with which it does not comply; or
- (2) Became nonconforming because of other governmental action, such as a court order or a taking by a governmental body under eminent domain or negotiated sale. A nonconformity or nonconforming use does not include a land use, structure, physical form of land development, lot of record, or sign that was allowed to deviate from this ordinance by an approved variance.

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A nonconformity or nonconforming use is one of two types of physical land development: a nonconforming land use or a nonconforming development.

*Nonconforming land use* means an activity using land, buildings, and/or structures for a purpose that is not currently allowed as a use in the zoning district in which it is located.

*Nonconforming structure* means a nonconformity other than a nonconforming land use that does not currently conform to an ordinance standard such as height, setback, or size.

*Nonfarm uses* means any use which is not an agricultural use as defined in this chapter or which is not accessory to an agricultural use.

*Noxious weed* means an annual, biennial, or perennial plant that the commissioner of the department of agriculture designates to be injurious to public health, the environment, public roads, crops, livestock, or other property.

*Nursery, retail* means the off-premises storage and sale of garden plants, flowers, trees, shrubs, and fertilizers, as well as, the sale of garden tools and similar accessory and ancillary products to the general public.

*Off-premises sign* means a sign advertising a business, commodity, service or entertainment conducted, sold or offered elsewhere other than upon the premises where the sign is maintained.

*Off-sale* means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

*Official land use district map* and *official zoning map* shall have the same meaning and force of law.

*On-premises sign* means a sign which advertises the business, commodity, service or entertainment, offered upon the same premises on which the sign is located.

*On-sale* means the sale of alcoholic beverages for consumption on the licensed premises only.

*Open space* means land areas which are undeveloped and left in a natural state.

*Operator* means any owner or lessee of mineral rights engaged in or preparing to engage in mining operations. The term also includes business operators or feedlot operators.

*Ordinary high water level* means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the channel's bank. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

*Organized group camp* means buildings and facilities owned and operated by a non-profit organization, that offers access to recreational or educational facilities for a limited period of time and that are not in conflict with permitted or conditional uses of the district. The term shall include such organizations as scouts, 4-H, YMCA, school groups, youth groups, church groups, and civic organizations.

*Outlot* means a remnant tract of land which may, at a future date, be replatted, or any lot that does not comply with local ordinances. Construction permits for outlots will not be issued until the outlot has been granted development authority by the board of commissioners via resubdivision and other required processes or approvals.

*Outstanding violation* means any ongoing or completed activity which is not permitted by the code or pursuant to state and federal land use regulations.

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*Owner or property owner* means the fee owner of land, or the beneficial owner of land, whose interest is primarily one of ownership or possession and enjoyment in contemplation of ultimate ownership. The term includes, but is not limited to, mortgagees and vendees under a contract for deed.

*Parcel generally* means a contiguous quantity of land in the possession of an owner that is generally described by metes and bounds (Minn. Stats. § 505).

*Person* means any individual, firm, partnership, corporation, company, association, joint stock association or body politic. The term also includes any trustee, receiver, assignee or other similar representative thereof.

*Photovoltaic solar energy system* means a system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

*Planned unit development* means a large lot or tract of land developed as a unit rather than as individual development wherein two or more buildings, or compatible land uses, may be located in relationship to each other rather than to lot lines or land use district boundaries.

*Planning agency* means the organization of the planning commission and staff of the land use division of the county environmental services.

*Planning commission* means the county planning commission.

*Planning director, land use and natural resources administrator, zoning administrator or planner* means the county planning director.

*Plat* means a delineation of one or more existing parcels of land drawn to scale showing all data as required by this chapter, depicting the location and boundaries of lots, blocks, outlots, parks, and public ways (Minn. Stats. ch. 505).

*Permitted use* means a public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular land use district.

*Practical difficulty* means the property in question cannot be put to a reasonable use if used as required by this code; the plight of the landowner is due to circumstances unique to the property not created by the property owner; and the variance if granted will not alter the essential character of the locality. Economic considerations alone do not constitute a practical difficulty if a reasonable use for the property exists under this code.

*Principal structure or use* means one which determines the predominant use as contrasted to accessory use or structure.

*Private landing field* means an area of land designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

*Projecting sign* means a sign, other than a wall sign, which projects from and is supported by a building.

*Quarry* means any pit or excavation made for the purpose of searching for or removal of any soil, earth, clay, sand, gravel, limestone or other nonmetallic minerals.

*Quarter/quarter section* means a division of a section of land according to the rules of the original United States Government Public Land Survey containing approximately 40 acres.

*Reader board sign* means a sign intended to display a message through the use of manually changed letters, that is permanently attached to a ground sign or affixed to a wall.

*Real estate sign* means a sign advertising the sale, rental or development of the premises upon which it stands, or directing attention to the opening or location of a new residential development.

*Reception/banquet/meeting halls/retreat centers or facilities* means the use of a building or land for receptions, banquets, meeting halls or retreats.

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*Reclamation plan* means a document that details the activity which is to be taken during and following mining operation to return the area to a natural state as much as possible or take actions that would substantially reduce adverse environmental effects from occurring.

*Recreation, commercial* means all uses relating to outdoor recreation uses such as driving ranges, golf courses, gun clubs, paintball courses, hunting preserves, ATV courses or similar uses that are privately owned and operated with or without the intention of earning a profit by providing entertainment for the public. The definition does not include movie theaters, bowling alleys, lodging facilities, or campgrounds.

*Recreational camping vehicle*, means any of the following:

- (a) Any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses;
- (b) Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;
- (c) Any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; and
- (d) Any folding structure, mounted on wheels designed for travel, recreation, and vacation use.

*Recreational purpose* means leisure activities, usually of a formal nature and often preformed with others, requiring equipment and taking place at prescribed places, sites, or fields by the owners of the parcel and/or their guests.

*Recyclable materials* means and refers to marketable materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material. For purposes of part 7035.2860, recyclable materials also refers to marketable materials separated from industrial solid wastes and construction and demolition debris. Recyclable materials may also be referred to as secondary materials.

*Recycling* means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

*Recycling facility* means a type of solid waste management facility where only recyclable materials are received and prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use. The recyclable materials must:

- (a) Fit the definition of mixed municipal solid waste prior to separation for recycling;
- (b) Not include items which have been prohibited by state law from disposal or placement in mixed municipal solid waste, unless approved by the commissioner;
- (c) Have been separated from other mixed municipal solid waste by the generator prior to collection; and
- (d) Not be hazardous as defined in chapter 7045, except for household hazardous waste. Recyclable materials that are defined as household hazardous waste in part 7045.0131, subpart 1, and Minn. Stats, 15A.96, subdivision 1, paragraphs (a) and (b), may be accepted at the facility for recycling if they are managed in accordance with part 7045.0310.

"Recycling facility" does not include an individual generator of recyclable materials, such as a homeowner, a business, or a government agency, and it does not include a manufacturer using recyclable materials as feedstock. A solid waste management facility aggregating recyclable materials as an activity incidental to their primary waste management activities is not a recycling facility.

*Reflecting solar energy system* means a solar energy system that includes a device to reflect light onto the collector surface for the purpose of increasing the energy production of the system.

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*Remodel* means an alteration of the interior or exterior portion of the existing structure to include work performed on the interior of a structure (provided the work performed does not increase the number of bedrooms or increase water usage), maintenance, and adding windows and doors. Under no circumstances shall remodeling constitute the replacement of the main structural frame, walls, or changes in the exterior dimensions of the structure.

*Replacement, reconstruction or restoration* means construction that exactly matches pre-existing conditions or smaller.

*Resort* means any buildings, structures or enclosures kept, used, maintained or advertised to the public to be an enclosure where sleeping accommodations are furnished to the public, primarily to those seeking recreation, for periods of one day or longer, and having for rent three or more cottages, rooms or enclosures.

*Right-of-way* means the land covered by a public road or other land dedicated for public use or for certain private use such as a utility easement.

*Road/street* means any vehicular way that is:

- (1) An existing private, state, county, county state aid or municipal roadway;
- (2) Shown upon a plat approved pursuant to law;
- (3) Shown on a plat duly filed and recorded in the office of the county recorder;
- (4) Shown on the official map or adopted master plan.

It includes the land between the street lines, whether improved or unimproved.

*Roofline* means, in structures with a flat roof, the top line of the coping; in structures with pitched roofs, the intersection of the outside wall with the roof.

*Roof sign* means a sign permanently affixed upon the roof of a building.

*Sanitary sewer* means the area over which sanitary sewer is provided to all properties under the direction and jurisdiction of a sanitary sewer board. The district shall precisely describe the area over which it has jurisdiction and a description of service in a comprehensive plan adopted pursuant to requirements of the State of Minnesota.

*School* means as defined by Minn. Stats. § 120A.05 and private schools, excluding home schools.

*Screening* means the use of plant material, fences or earthen berm to partially conceal and separate a land use from the surrounding land uses.

*Seasonal cabin* means a dwelling unit that is not permanently occupied as a family residence during any entire year and that is designed to be used for only a few months each year.

*Seasonal produce sales stands* means a detached accessory structure used seasonally from which agricultural products are sold.

*Self-service storage facilities (mini-storage)* means a building or group of buildings containing separate, individual, and storage spaces for personal property available for lease or rent.

*Septage* means solids and liquids removed from an SSTS and includes solids and liquids from cesspools, seepage pits, other pits, or similar systems or devices that receive sewage. Septage also includes solids and liquids that are removed from portable, incinerating, composting, holding, or other toilets. Waste from Type III marine sanitation devices, as defined in Code of Federal Regulations, title 33, section 159.3, and material that has come into contact with untreated sewage within the past 12 months is also considered septage.

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*Setback* means a line within a lot defining the minimum distance between the building and any one of the following: Right-of-way, centerline of a road, bluff, water feature, feedlot, sewage treatment system, well(s) or property line; in which buildings or structures may not be placed.

*Shoreland* means land located within the following distances from public waters:

- (1) One thousand feet from the normal high water mark of a lake, pond or flowage; and
- (2) Three hundred feet from a river or stream; or
- (3) The landward extension of a designated floodplain, whichever is greater.

The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner of the department of natural resources and the county commissioners.

*Sign* means any name, identification, description, display, illustration, structure, emblem or device which is affixed to, painted or represented upon a building, bench or other outdoor structure, vehicle or piece of land, which is intended to direct attention to an object, product, place, activity, person, organization or business. The structure supporting or intended to support a sign shall be considered part of that sign.

*Sign area* means the net geometric area enclosed by the display surface of the sign. Only one face of a multiple-faced sign shall be considered in determining the display surface area.

*Sign height* means the vertical distance measured from the lot elevation to the highest point of such sign.

*Sign setback* means the horizontal distance measured from a lot line and the nearest portion of a sign or its structure.

*Site plan* means the development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways, landscaping and open spaces, walkways, means of ingress and egress, circulation, utility services, structures and buildings, signs and lighting, berms, buffers, and screening devices, surrounding development, wells, sewer line, septic systems and any other information that reasonably may be required in order for an informed decision to be made by the approving authority.

*Small solar energy system* means a solar array that is a minimum of 120 square feet in size with a power capacity of less than 100 kilowatts.

*Solar array* means any number of solar photovoltaic modules or panels connected together to provide a single electrical output.

*Solar energy system* means a set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.

*Solid waste* means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.

*Solid waste land disposal facility* means a type of solid waste management facility that is used to dispose of solid waste in or on the land.

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*Solid waste management facility* means a facility for the storage, collection, transportation, processing or reuse, conversion, or disposal of solid waste.

*Solid waste landfill* means a land disposal site employing an engineered method of disposing of solid waste in a manner that minimizes environmental hazards.

*Solid waste transfer facility* means a type of solid waste management facility in which solid waste from collection vehicles is compacted or rearranged for subsequent transport. A transfer facility may be fixed or mobile.

*Source-separated organic material compost facility* means a type of solid waste management facility that means:

- (a) A site used to compost source-separated organic material;
- (b) All structures or processing equipment used to compost source-separated organic material; and
- (c) All structures or equipment used to:
  - (1) Control drainage;
  - (2) Manage contact water;
  - (3) Manage stormwater;
  - (4) Manage incoming material;
  - (5) Manage the finished product; or
  - (6) Manage rejects and residuals resulting from the composting process.

*Source-separated organic material* means:

- (a) Source-separated compostable materials and yard waste, as defined under Minn. Stats. § 115A.03, except sanitary products and diapers;
- (b) Vegetative wastes generated from industrial or manufacturing processes that prepare food for human consumption; and
- (c) Compostable materials that meet the standards in ASTM D6400 and ASTM D6868, incorporated by reference under part 7035.0605.

Unless specifically permitted by the commissioner under part 7001.0150, source-separated organic material does not include:

- (1) Animal wastes such as manure or carcasses;
- (2) Fish wastes generated from industrial or manufacturing processes;
- (3) Meat by-products generated from industrial or manufacturing processes;
- (4) Sanitary products; or
- (5) Diapers.

"Source-separated organic material" also does not include:

- (1) Septage; or
- (2) Sewage sludge, as defined in part 7041.0100, subpart 49.

*Stockpiling, fill* means to collect and store large amounts of fill to use at a later time, place and/or date.

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*Stormwater facility* includes storage facilities (ponds, vaults, underground tanks, and infiltration systems); water quality facilities (wetponds, biofiltration swales, constructed wetlands, sand filters, and oil/water separators); and conveyance systems (ditches, pipes, and catchbasins).

*Story* means that portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between the floor and the ceiling. If the finished floor level directly above a basement or cellar or unused under floor space is more than six feet above grade for more than 50 percent of its perimeter, or is more than 12 feet above grade any point, such basement, cellar or unused under floor space is a story.

*Structure* means anything constructed or erected, which requires permanent or temporary location on the ground and shall include advertising devices or other construction or erection with special function or form, except fences, well(s) and walks.

*Structural alterations* means any change in the supporting members of a building, such as bearing walls, columns, beams, rafters or girders.

*Substantial damage* means damage of any origin sustained by a structure when the cost of restoring the structure to its undamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substations* means any electrical facility designed to convert electricity produced to a voltage for interconnection with transmission lines.

*Table or sparkling wine* means a beverage made without rectification or fortification and containing not more than 25 percent alcohol by volume and made by the fermentation of grapes, grape juice, other fruits or honey.

*Temporary sign* means any sign, but not including portable signs, banner, pennant, poster or advertising display which is intended to be displayed for a limited period of time and is not permanently affixed to the ground or a structure. Signs other than temporary signs shall be considered permanent signs.

*Tower, commercial wireless communications* means a structure, privately or publicly owned, used for commercial purposes, upon which radio, television, cellular telecommunications, personal communication services, or other communication antennas and/or equipment of a similar nature is mounted, excluding towers used for business band, citizen's band, amateur radio, personal television reception antennas, or other similar personal uses.

*Trademark sign* means any sign designating a design or emblem of a product or manufacturer.

*Travel trailer* means a vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer by the manufacturer of the trailer.

*Urban use* means uses typically related to residential, commercial, and industrial development at a density higher than otherwise permitted in the agricultural and conservation zoned district.

*Use* means the purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

*Utilities* means all utility services providers, whether the providers are government-owned facilities or furnished by private utility companies.

*Vacation* means the act of relinquishing a recorded dedication or easement as in a street right-of-way, utility easement, etc.

*Variance* means any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause undue hardship.



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*Wall sign* means a sign affixed flush on a part of the exterior wall of a building.

*Water management plan* means the document titled Blue Earth County Water Management Plan dated November 18, 2008, as amended.

*Wetland* means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have a predominance of hydric soils, be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and under normal circumstances, support a prevalence of hydrophytic vegetation, as established in Minn. Stats. § 103G.005, subd. 19.

*Wind energy conversion system* or *WECS* means any device, such as a wind charger, windmill, or wind turbine and associated facilities that convert wind energy to electrical energy.

*Wind energy conversion system (WECS), commercial* means a WECS or combination of WECS that is designed to have a capacity in excess of the amount needed for residential and agricultural uses and that has a combined nameplate capacity of 125 KW or more.

*Wind energy conversion system (WECS), non-commercial* means a WECS or combination of WECS that is designed to have a capacity for residential and agricultural uses and has a combined nameplate capacity of less than 125 KW.

*Wine* means a product made from the normal alcoholic fermentation of grapes including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake in each instance containing not less than one-half of one percent (0.5%) nor more than 24 percent alcohol by volume for nonindustrial use. Wine does not include distilled spirits.

*Wine wholesaler* means a person who sells alcoholic beverages to persons to whom sale is permitted under Minn. Stats. § 340A.310, from a stock maintained in a warehouse in the state.

*Yard* means any space in the same lot with a building open and unobstructed from the ground to the sky.

*Yard, front*, means the area extending across the front of the lot between the side yard lines and lying between the centerline of the road or highway, and the nearest line of the building.

*Yard, rear*, means a space unoccupied, except for an accessory building, between the rear lines of the principal building and the rear line of the lot, for the full width of the lot.

*Yard, side*, means an open unoccupied space on a lot between the main building and the side line of the lot, extending from the front to the rear of the main building.

*Zoning administrator* means the person designated by the county to administer and enforce this chapter.

*Zoning ordinance* and *Land use ordinance* shall have the same meaning and force of law.

(Ord. of 2-28-2012; Ord. of 2-16-2016; Ord. of 5-19-2020, Att. A; Ord. of 8-25-2020(1); Ord. of 8-25-2020(2); Ord. of 9-22-2020(1); Ord. of 1-19-2021(2), Att. A; Ord. of 4-27-2021, Att. A; Ord. of 8-24-2021(2), Att. A; Ord. of 1-25-2022(2), Att. A)

Cross reference(s)—Definitions generally, § 1-2.

#### **Sec. 24-4. Jurisdiction of chapter provisions.**

The jurisdiction of this chapter shall apply to all the areas of the county outside the incorporated limits of municipalities, and within the boundaries of any municipality which chooses to come under the jurisdiction of this chapter.

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(Ord. of 2-28-2012)

**Sec. 24-5. Scope of chapter.**

From and after June 8, 1996, no structure may be erected, constructed, enlarged, reconstructed or altered, and no structure or land may be used or occupied for any purpose, nor in any manner which is not in conformity with this chapter.

(Ord. of 2-28-2012)

**Sec. 24-6. Interpretation of chapter provisions.**

When interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(Ord. of 2-28-2012)

**Sec. 24-7. Abrogation of greater restrictions.**

Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance or regulation shall be controlling.

(Ord. of 2-28-2012)

**Sec. 24-8. Relation to land use plan.**

It is the policy of the board of commissioners that the enactment, amendment and administration of this chapter be accomplished with due consideration of the purposes and objectives of the county land use plan, as adopted or approved and amended from time to time by the board of commissioners. The board of commissioners recognizes that the land use plan is a guide for the future development of the county and the basis for the enactment of this chapter.

(Ord. of 2-28-2012)

**Sec. 24-9. General regulations.**

- (a) *Residential buildings.* Buildings used as residential dwellings shall be designed for residential purposes and shall comply with other provisions of this chapter.
- (b) *Required facilities.* Single-family and multifamily dwellings, guestrooms, and congregate housing designed to be used for human occupancy shall be provided with the following facilities inside the living unit:
  - (1) Heating facilities capable of maintaining a temperature of 70 degrees Fahrenheit (21 degrees Celsius) at a point three feet above the floor;
  - (2) A potable drinking water supply from a well, individual or shared, which meets the requirements of the well ordinance, chapter 6, article III;
  - (3) One bathroom type sink, one toilet, one kitchen type sink, and one bathtub or shower to meet basic requirements of sanitation and personal hygiene, connected to municipal sewer or subsurface soil treatment system meeting the requirements of the Blue Earth County SSTS Ordinance, chapter 6, article V;

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- (4) A source of electricity meeting the requirements of, and approved by, the Minnesota State Board of Electricity.
  - (5) All structures used for residential occupancy shall be affixed to a permanent foundation, frost footings or frost piers extending a minimum of 42 inches below grade. Manufactured homes shall be anchored according to the requirements of the manufacturer.
- (c) *Occupancy.* Residential buildings shall not be occupied until such residential building is connected to a source of potable drinking water, required sanitary facilities have been installed and connected to approved sewage treatment facilities, heating facilities are operational, and the electrical installation has received final approval from the Minnesota State Board of Electricity.
- (d) *Seasonal cabins.* Section 24-9(b)(1)—(b)(4) shall not apply to seasonal cabins used for recreational purposes. Water, sanitary facilities, and electricity, when provided, shall meet minimum requirements of this chapter, the Well Ordinance, Chapter 6, Article III, the Blue Earth County SSTS Ordinance, Chapter 6, Article V; the Blue Earth County Shoreland Ordinance, Chapter 14; and the Minnesota State Board of Electricity.
- (Ord. of 2-28-2012)

### **Sec. 24-10. Permitted uses.**

- (a) *Generally.* Permitted uses of land or buildings as listed in this chapter shall be permitted in the districts indicated under the conditions specified. No building or land shall be devoted to any use other than a use permitted in this chapter in the land use district in which such building, structure or land shall be located, except for the exceptions in subsection (b) of this section.
- (b) *Exceptions.*
- (1) Uses lawfully established prior to June 8, 1996, in accordance with sections 24-307 and 24-308.
  - (2) Conditional uses established in accordance with section 24-11.
  - (3) Essential services erected, constructed, altered or maintained by public and private utilities or by governmental departments or commissions, subject to permit requirements of this chapter.

(Ord. of 2-28-2012)

### **Sec. 24-11. Conditional uses.**

Conditional uses of land or buildings, as listed in this chapter, may be allowed in the districts indicated, subject to the issuance of conditional use permits, in accordance with the provisions of article II of this chapter. Whenever a conditional use is named as a major category, it shall be deemed to include all and only those itemized uses listed. See article II, section 24-47 planning commission, for additional information.

(Ord. of 2-28-2012)

### **Secs. 24-12—24-40. Reserved.**

## ***ARTICLE II. ADMINISTRATION AND ENFORCEMENT<sup>26</sup>***

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<sup>26</sup>Cross reference(s)—Administration, ch. 2.

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### **Sec. 24-41. Office of zoning administrator.**

- (a) *Generally.* The office of the zoning administrator is hereby established, for which the board of commissioners may appoint such employee or employees of the county as it may deem proper. The term of office of the zoning administrator shall be indefinite and shall terminate at the pleasure of the board of commissioners.
- (b) *Duties.* The duties of the zoning administrator shall include the following:
  - (1) Enforcement and administration of this chapter;
  - (2) Issue construction permits, demolition permits, shoreland alteration permits and certificates of occupancy, and maintain records of such documents;
  - (3) Receive and forward to the county planning commission and the board of commissioners all applications for conditional use permits;
  - (4) Receive and forward all applications and petitions for matters to come before the board of adjustment;
  - (5) Receive and forward to the county planning commission and the board of commissioners all applications for amendments to this chapter;
  - (6) Provide and maintain a public information bureau relative to matters arising out of this chapter;
  - (7) Maintain the zoning map as required in article III, division 1 of this chapter;
  - (8) Conduct inspections as necessary to ensure compliance with this chapter; and
  - (9) Accept and review land use development applications and determine when they are complete.

(Ord. of 2-28-2012)

### **Sec. 24-42. Fees.**

The board of commissioners shall establish fees by resolution as necessary for the administration of this chapter. The fees shall be collected by the zoning administrator and deposited with the county.

(Ord. of 2-28-2012)

### **Sec. 24-43. Construction and demolition permits.**

- (a) Construction permit.
  - (1) *Required.* Hereafter, no person shall erect, alter or move any building or its part without first securing a construction permit. No construction permit shall be issued until a land use development application has been accepted by the zoning administrator. Structures less than 120 square feet do not require a construction permit; but shall be constructed according to the appropriate setbacks and standards of this chapter.
  - (2) *Application.* Land use development application for a construction permit shall be presented to the zoning administrator on forms to be furnished by the county. The application may be submitted by the landowner or an agent of the landowner. Each application to construct, or alter a building, shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications shall contain such other information as determined by the zoning administrator to be necessary for the enforcement of this chapter.

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- (3) *Issuance.* The zoning administrator shall issue the construction permit only after determining that the land use development application is complete, the lot is buildable and that the plan complies with the provisions of this chapter.
  - (4) *After the fact permit fee.* Hereafter, any person who shall erect, alter or move any building or its part without first securing a construction permit shall pay a penalty fee set by the board of commissioners fee schedule.
  - (5) *Invalidation of permit.* A construction permit shall become invalid after 12 months of issuance.
  - (b) *Demolition permit; required.* Hereafter, no person shall demolish a residential dwelling, or any other structure 800 square feet or more in area, or clearing any building site or farmstead without first obtaining a demolition permit from the zoning administrator.

(Ord. of 2-28-2012)

### **Sec. 24-44. Violations, penalties and enforcement of chapter provisions.**

- (a) *Circumstances constituting a violation/violations misdemeanors.* Any person, partnership, association of one or more individuals, firm, or corporation who violates any of the provisions of this chapter, or who fails, neglects, or refuses to comply with the provisions of this chapter, including violations of conditions established in connection with the granting of variances, land use permits, land alteration and grading permits, and conditional use permits, or fails to comply with restoration orders, or who knowingly makes any false statement in any document required to be submitted under the provisions hereof, shall be considered to be in violation of the ordinance and shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1,000.00 or by imprisonment not to exceed 90 days, or both. Unless otherwise provided, each act of violation and every day on which such violation continues shall constitute a separate offense.
- (b) *Administrative enforcement upon determination of a violation.*
  - (1) Whenever the zoning administrator determines that any work, activity, construction, installation or use is being done or conducted contrary to the provisions of this chapter or any permit issued pursuant to this ordinance, the zoning administrator may issue an order to stop work directing such work, activity, construction, installation or use be stopped. The zoning administrator will notify the owner of the property and/or the permit holder of the violation through an order to stop work, which will be sent or delivered to the owner and/or permit holder. The order to stop work will identify, at a minimum, the following:
    - a. The nature of the violation;
    - b. The action required on the part of the property owner and/or permit holder to eliminate or resolve the violation;
    - c. A reasonable time in which the violation must be remedied; and
    - d. Inform the property owner and/or permit holder of their right to appeal the order to stop work and determination of the zoning administrator to the board of adjustment. Said appeal to proceed and be processed in the manner set forth in section 24-48 of this chapter, with the exception that the time to appeal an order to stop work to the board of adjustment shall be ten business days from the date of the issuance of the order to stop work.
  - (2) Work that has been stopped under an order to stop work shall not be resumed until the reason for the work stoppage has been completely satisfied. The zoning administrator will notify the property owner when the work can be resumed.

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- (3) Violation of an order to stop work issued under this chapter shall constitute a misdemeanor violation.
  - (4) The failure of a property owner and/or permit holder to appeal the order to stop work of the zoning administrator shall result in the order to stop work being considered final under this ordinance.
  - (5) If compliance with the order to stop work is not obtained within a reasonable period of time, the zoning administrator will report such violations to the county attorney, who will take the action he or she deems appropriate on the matter.
- (c) *Civil enforcement procedures.* In the event of a violation or a threatened violation of the chapter, any permit issued under this chapter, or any regulation or other official control adopted by the board, the zoning administrator, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct, or abate such violations or threatened violations, and it may be the duty of the county attorney to institute such action.
- (d) *Other enforcement options and remedies available.* None of the enforcement options set forth in this section are meant to be the sole or exclusive means of enforcement procedures that the county may follow. The administrative enforcement process and the other enforcement procedures referred to in this section are in addition to any other right, remedy, or cause of action the county may have under Minnesota law to take actions, either civilly or criminally, to eliminate or resolve violations of this chapter. All such rights, remedies, and causes of action may, in the county's sole discretion, be exercised separately or in conjunction with one another and with such frequency as the county deems appropriate.
- (e) *Application to county personnel.* The failure of any officer or employee of the county to perform any duty imposed by this chapter shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

(Ord. of 2-28-2012; Ord. of 8-23-2016(1))

#### **Sec. 24-45. Land use development application; complete application required.**

An application for land use development shall not be accepted as containing all required information until all of the following have been completed:

- (a) A pre-application meeting with county planning staff during which the appropriate application procedures, requirements and applicable chapter provisions are reviewed and explained.
- (b) When a land use development application requires a public hearing, the person proposing the development shall have a pre-application meeting with the township board of the township in which the action is proposed.
- (c) Submittal of all applicable and completed county applications relating to the zoning action being requested. Current land use development application forms and other county application forms may be periodically updated.
- (d) Submittal of all supporting information required by this chapter and/or outlined in the application procedures documents that are included with the land use development application. Current procedure forms associated with the land use development application may be periodically updated.
- (e) Submittal of all fees associated with the land use development application. Current fees are included on the land use development application form or procedures documents. Such fees may be periodically updated by action of the board of commissioners.
- (f) Applications on properties which have unresolved or outstanding violations shall have the violations resolved prior to an application for land development being considered complete. Applications may be accepted for projects which are intended to mitigate or resolve an existing violation.

**Sec. 24-46. Chapter and map amendments.**

(a) *Amendment procedure.*

(1) *Initiation of an amendment.* This chapter may be amended whenever the public necessity and the general welfare require such amendment by following the procedure specified in this section. Proceedings for amendment of this chapter shall be initiated by a land use development application to amend this chapter and:

- a. A petition of the affected property owners. For purposes of this subsection, affected property owners shall refer to owners of the property specified on the application.
- b. A recommendation of the county planning commission.
- c. By action of the board of commissioners.

(2) *Application.*

- a. *Generally.* Application for an amendment shall be made to the zoning administrator, together with the required fees.
- b. *Site plan required.* The application shall be accompanied by a site plan and such additional information as determined by Blue Earth County Environmental Services as necessary to show compliance with this chapter.
- c. *Time deadline for agency action.* All applications shall be processed in conformance with Minn. Stats. § 15.99 generally known as the 60-day rule.

(3) *Notification and public hearing.*

- a. *Publication.* At least ten days in advance of each public hearing the zoning administrator shall cause a notice of the time and place of such hearing to be published in the official newspaper of the county.
- b. *Notification.* All property owners of record within 500 feet of incorporated areas and/or one-half mile of unincorporated areas or to the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners of unincorporated areas where the map amendment is proposed shall be notified by depositing a written notice in the U.S. mail, postage prepaid, as to the time and place of the public hearing. All municipalities within two miles of the proposed map amendment shall be given proper notice.
- c. *Omission in notification.* The zoning administrator shall be responsible for proper publication of notices and notification to adjacent property owners. However, an error in the published notice of public hearing or failure to notify a specific property owner of the application for a map amendment shall not be considered cause to declare the public hearing invalid.
- d. *Public hearing.* Upon receipt, in proper form, of the application and other requested material, the county planning commission shall hold at least one public hearing in a location to be prescribed by the planning commission or zoning administrator in compliance with Minn. Stats. § 15.99 and Minn. Stats. § 394

(4) *Planning commission's findings and recommendation.* Following the public hearing, the county planning commission or zoning administrator shall make a report of its findings and recommendations on the proposed amendment and shall forward a copy to the board of commissioners for action.

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- (5) *Board of commissioners approval required.* For each application for a map amendment, the county planning commission or zoning administrator shall report to the board of commissioners findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the planning commission or zoning administrator, the board of commissioners shall hold public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the board of commissioners may adopt the amendment or any of its parts in such form as it deems advisable. The amendment shall be effective only if a majority of all members of the board of commissioners concur in its passage.
- (6) *Resubmittal of an ordinance or map amendment request following denial by the board of commissioners.* If a request for an ordinance or map amendment is denied by the board of commissioners, no new application shall be accepted by the zoning administrator for a 12-month period following denial if it is substantially the same as, or similar to, the amendment which was denied by the board of commissioners.

The imposition of this 12-month period is intended to give the applicant time to reconsider the appropriateness of the proposal, to address concerns, and to encourage dialogue between the applicant and affected neighboring landowners. The zoning administrator may accept a new application, if in his or her opinion, new evidence or a change in conditions warrants it.

- (b) *Recording.* Upon the adoption of any other official control, including any maps or charts supplemented to or as a part thereof, the zoning administrator shall file a certified copy with the land records department for record. Ordinances, resolutions, maps or regulations filed with the land records department pursuant to this chapter do not constitute encumbrances on real property.

(Ord. of 2-28-2012)

### **Sec. 24-47. Planning commission.**

- (a) *Establishment.* A planning commission is hereby established and vested with such authority as is hereafter provided and as provided by Minn. Stats. § 394.21.
- (b) *Organization and membership.*
- (1) *Generally.* The planning commission shall consist of not less than five nor more than 11 members appointed by the board of commissioners. At least two members shall be residents of the portion of the county outside the corporate limits of municipalities. No more than one voting member of the planning commission shall be an officer or employee of the county.
  - (2) *Potential conflict of interest.* No voting member of the planning commission shall have received, during the two years prior to appointment, any substantial portion of income from business operations involving the development of land within the county for urban and urban related purposes.
  - (3) *Term of office; filling of vacancies and removal from office.* Members of the planning commission shall serve at the pleasure of the board of commissioners.
    - a. The term of office is three years and may be continued in three-year terms at the discretion of the board of commissioners.
    - b. The board of commissioners shall make appointments to fill vacancies on the planning commission. Appointments to fill an unexpired term of office shall be for the remaining term of the office. All other appointments shall be at the completion of a three-year term.



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- c. Members may be removed from office, prior to the completion of the term of office, by a majority vote of the board of commissioners.
- (c) *Procedure.*
- (1) *Officers.* The planning commission shall elect a chairperson and vice-chairperson from among its members.
  - (2) *Meetings.* The meetings of the planning commission shall be held at the call of the chairperson and at such other times as its rules of procedure may specify.
  - (3) *Rules and public record.* The planning commission shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations.
  - (4) *Secretary.* The zoning administrator shall act as secretary to the planning commission.
- (d) *Duties and powers.*
- (1) *Duties.* The planning commission shall cooperate with the zoning administrator and other employees of the county in preparing and recommending to the board of commissioners for adoption a comprehensive plan and recommendations for the execution of the plan.
  - (2) *Review authority.* The planning commission shall conduct public hearings, review all applications and prepare a report and recommendation to the board of commissioners on the following:
    - a. Conditional use permits.
    - b. Plans for subdivisions of land.
    - c. Planned unit developments.
    - d. Comprehensive plans, official controls and amendments thereto.
    - e. Plans for public land acquisition and development.
    - f. Map amendments.
    - g. Additional duties and responsibilities assigned by the board of commissioners by ordinance.
- (e) *Conditional use permits and interim use permits.*
- (1) *Application.*
    - a. *Generally.* Applications for land use development for conditional use permits and interim use permits shall be made to the zoning administrator, together with the required fees.
    - b. *Site plan required.* The application shall be accompanied by a site plan and business/operation plan and such additional information as determined by the planning agency as necessary to show compliance with this chapter.
    - c. *Time deadline for agency action.* All applications shall be processed in conformance with Minn. Stats. § 15.99 generally known as the 60-day rule.
  - (2) *Notification and public hearing.*
    - a. *Publication.* At least ten days in advance of each public hearing, the zoning administrator shall cause a notice of the time and place of such hearing to be published in the official newspaper of the county.
    - b. *Notification.* All property owners of record within 500 feet of the incorporated areas and/or one-quarter mile of the affected property or to the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners of unincorporated areas

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where the conditional use or interim use is proposed shall be notified by depositing a written notice in the U.S. mail, postage prepaid, as to the time and place of the public hearing. All municipalities within two miles of the proposed conditional use or interim use shall be given proper notice.

- c. *Omission in notification.* The zoning administrator shall be responsible for proper publication of notices and notification to adjacent property owners. However, an error in the published notice of public hearing or failure to notify a specific property owner of the application for a conditional use permit or interim use permit shall not be considered cause to declare the public hearing invalid.
  - d. *Public hearing.* Upon receipt in proper form of the application and other requested material, the county planning commission shall hold at least one public hearing in a location to be prescribed by the planning commission or zoning administrator in compliance with Minn. Stats. § 15.99 and Minn. Stats. ch. 394.
- (3) *Board of commissioners' approval required.* For each application for a conditional use permit or interim use permit, the county planning commission or zoning administrator shall report to the board of commissioners' findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the planning commission or zoning administrator, the board of commissioners shall hold whatever public hearings it deems advisable and shall make a decision upon the proposal for a conditional use permit or interim use permit.
  - (4) *Resubmittal of application following denial by the board of commissioners.* If a request for a conditional use permit or interim use permit is denied by the board of commissioners, no new application shall be accepted by the zoning administrator for a 12-month period following denial if it is substantially the same as, or similar to, the request which was denied by the board of commissioners. The imposition of this 12-month period is intended to give the applicant time to reconsider the appropriateness of the development proposal, to address concerns and to encourage dialogue between the applicant and affected neighboring landowners. The zoning administrator may accept a new application, if in his or her opinion, new evidence or a change in conditions warrants it.
  - (5) *Adverse environmental effect.* The applicant for a conditional use permit or interim use permit which, in the opinion of the planning commission, may result in a material adverse effect on the environment may be requested to demonstrate the nature and extent of the effect.
  - (6) *Imposition of conditions.* In granting any conditional use permit or interim use permit under the provisions of this section, the county board of commissioners shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the chapter, regulation or provision to which the conditional use permit or interim use permit is granted.
  - (7) *Invalidation of permit.* An approved conditional use permit or interim use permit shall become invalid unless commencement of the use has begun within 12 months of final approval by the board of commissioners. Mineral extraction is excluded.
  - (8) *Permit validity.*
    - a. A conditional use permit shall be valid as long as the conditions attached are met. If the planning agency finds that specific conditions of the permit are not being met or if site conditions or activities have changed, the permit shall be brought back for review by the planning commission and the board of commissioners.
    - b. An interim use permit shall be valid until any of the following occur:
      - 1. The conditions attached to the permit are no longer met.

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2. There is a change in ownership of the property on which the interim use permit was approved.
  3. The interim use permit is inactive for one year or longer.
  4. The expiration date specified in the interim use permit is met.
  5. An event specified in the interim use permit is met.
  6. There is a change in zoning regulations as described in Minn. Stats. § 394.303, interim uses.
- c. The planning commission shall review the conditional use permit or interim use permit application and forward a recommendation to the board of commissioners for final action.
- (9) *Compliance.* Any use permitted under the terms of any conditional use permit or interim use permit shall be established and conducted in conformity to the terms of such permit and of any conditions designated in connection therewith. Any proposed change in operations or change in owners shall be submitted to the planning agency for review. Failure to comply with the terms of the permit shall be reviewed by the planning commission and the board of commissioners for possible revocation.
- (f) *Findings required.*
- (1) *Enumeration.* The planning commission shall not forward a recommendation of approval for a conditional use permit or interim use permit unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the planning agency may require:
    - a. That the proposed use conforms with the county land use plan.
    - b. The demonstrated need for the proposed use.
    - c. That the proposed use will not degrade the water quality of the county.
    - d. That the proposed use will not adversely increase the quantity of water runoff.
    - e. That soil conditions are adequate to accommodate the proposed use.
    - f. That the proposed use does not create a potential pollution hazard.
    - g. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
    - h. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
    - i. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.
    - j. That the proposed use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
    - k. That the proposed use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.
    - l. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
    - m. That the density of proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable zoning district.

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- n. That the intensity of proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable zoning district.
  - o. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals and general welfare.
- (2) *Recommendation of conditions.* In recommending any conditional use permit or interim use permit to the board of commissioners, under the provisions of this chapter, the planning commission shall assign such conditions in connection therewith as will, in its opinion, secure substantially the objectives of this chapter.
- (g) *Recording.* The zoning administrator shall file a certified copy of any conditional use permit or interim use permit approved by the board of commissioners, with the county recorder's office for record. The conditional use permit or interim use permit shall include the legal description of the property involved.
- (Ord. of 2-28-2012; Ord. of 8-25-2020(1))

### **Sec. 24-48. Board of adjustment.**

- (a) *Establishment.* There is hereby established the Blue Earth County Board of Adjustment which shall have duties and responsibilities as set forth herein and as provided for in Minn. Stats. ch. 394.
- (b) *Membership.* The board of adjustment shall consist of either five or seven members who shall be appointed by the county board of commissioners. At least one member shall be a voting member of the planning commission. At least one member shall be a resident of the unincorporated portion of the county. No elected or appointed officer of the county, or employee of the board of commissioners, shall serve as a member of the board of adjustment.
  - (1) Vacancies on the board of adjustment shall be filled by the board of commissioners for the unexpired portion of the term. Vacancies exist due to any of the following circumstances:
    - a. Death of a member;
    - b. Resignation of a member;
    - c. Removal of a member.
  - (2) Questions of whether any particular issue or matter before the board of adjustment involves a conflict of interest sufficient to disqualify a member from voting therein shall be decided by a majority vote of all board members, except the board member being challenged.
- (c) *Term.* Each member shall serve for a period of three years. The term of each member shall begin on January 1 and shall continue through December 31 of the last year of the term; provided however, that any member shall continue to serve after the expiration of their term until a successor is appointed.
- (d) *Removal.* The board of commissioners may remove a member for any of the following reasons:
  - (1) Failure of a member to attend one-third of the regularly scheduled meetings in any calendar year.
  - (2) Failure to attend three consecutive meetings without an excuse deemed reasonable by the board of commissioners.
  - (3) Attendance at less than the entirety of board of adjustment meetings to such an extent and with such frequency as to, in the opinion of the board of commissioners, render the member's services too little value to the county to justify continued membership on the board of adjustment.

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- (4) Violation by the member of any land use control ordinance adopted pursuant to the authority of Minn. Stats. ch. 394, or any permits issued thereunder.
  - (5) Inability to carry out the duties of a member due to a conflict of interest.
  - (6) Offensive, harassing or abusive behavior by a member either at meetings or under circumstances that the board of commissioners concludes negatively affects the ability of the member to perform the duties of the position.
  - (7) Any other conduct which in the determination of the board of commissioners negatively affects the ability of the member to carry out the duties of the position, or constitutes misconduct warranting removal.
- (e) *Election of officers.* The board of adjustment shall elect a chairman and vice chairman from among its members and shall appoint a secretary who need not be a member of the board. It shall adopt rules of procedure for the transaction of its business, in whatever form it deems appropriate. The board shall keep a public record of its proceedings, which shall include the minutes of its meetings, any findings it may make on matters before it, and action taken on each matter heard by it.
  - (f) *Meetings and quorum.* The meetings of the board of adjustment shall be held at the call of the zoning administrator, or the call of the chairman of the board of adjustment, and at such other times as the board in its rules of procedure may specify. A simple majority of the members shall constitute a quorum, and a majority vote of that quorum is sufficient to conduct business and take action. The chairman has full voting privileges at all times.
  - (g) *Compensation.* The members of the board of adjustment may be compensated in an amount to be determined by the county board and may be paid their necessary expenses in attending meetings of the board and in conduct of the business of the board.
  - (h) *Powers and duties of the board of adjustment.* The board of adjustment shall have the following duties.
    - (1) *Variations.* The board of adjustment shall have the exclusive authority to order the issuance or denial of variations from the requirements of any official control, including restrictions placed on nonconformities.
    - (2) *Administrative appeals.* The board of adjustment shall have the exclusive authority to hear and decide appeals from any order, requirement, decision or determination made by an administrative official charged with enforcing any Ordinance adopted under the authority of Minnesota Statutes Chapter 394.
    - (3) *Official map appeals.* The board of adjustment shall have the exclusive authority to hear and decide any appeals of a denial of a land use permit by the county zoning department due to the land's location on any official map, as set forth in, and under the procedures of, Minnesota Statute Section 394.361.
  - (i) *Procedures of the board of adjustment.*
    - (1) Applications for any variance, any administrative appeal, and any official map appeals as described and set forth in Minnesota Statutes Section 394.361, shall be submitted to the county planning and zoning office on forms provided by the office for each type of proceeding. They shall be accompanied by all information required to be included in a completed application, as determined by the county zoning administrator. They shall also be accompanied by the required application fee.
    - (2) Administrative appeal applications. Administrative appeals may be taken by any person, firm or corporation aggrieved, or by any officer, department, board or bureau of a town, municipality, county, or state. The appeal must be made within 30 calendar days from the date of the order, requirement, decision or determination being appealed by filing with the county zoning office a written notice of

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appeal. The notice of appeal shall be accompanied by any required fee. The notice shall state the following:

- a. The particular order, requirement, decision, or determination from which the appeal is taken;
  - b. The name and address of the appealing person or entity;
  - c. The specific grounds for the appeal, including all argument as to why the appealing person or entity believes the order, requirement, decision or determination being appealed was in error; and
  - d. The specific relief requested by the appealing person or entity.
- (3) The county zoning administrator shall refer any application to the board of adjustment for hearing and review after such application has been deemed complete.
  - (4) The board of adjustment will hold at least one public hearing on an application for a variance or an administrative or official map appeal, and provide notice thereof pursuant to the requirements and procedures as set forth in Minnesota Statutes Section 394.26. In its sole determination and discretion, the board of adjustment may hold additional public hearings on applications.
  - (5) Decisions on administrative appeals. The board of adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken. In exercising this power the board of adjustment may direct the issuance of a permit or issue such other order as consistent with its decision on the appeal.
  - (6) The applicant or the authorized representative of the applicant is encouraged to appear at the hearing on the request to present evidence and answer questions.
  - (7) In all variance proceedings before the board of adjustment, the burden of proof is on the applicant to show that the criteria for the granting of a variance is present.
  - (8) In all administrative and official maps appeals it is the burden of the applicant to prove that the action of the zoning office was in error and should be reversed or modified.
  - (9) An applicant for a variance must have an ownership interest in the property for which an application is made.
  - (10) As authorized in Minnesota Statute § 394.362, the applicant for a variance which in the opinion of the board of adjustment may result in a material adverse effect on the environment may be required by the board of adjustment to demonstrate the nature and extent of the effect.
- (j) *Criteria for granting variances.* A variance to a provision of the Zoning Ordinance may be issued to provide relief to the landowner in those zones where the intent of the applicable standards creates practical difficulties for the property owner in the use of their land.

No variance shall have the effect of allowing the floodplain district a lower degree of flood protection than the regulatory flood protection elevation for the particular area or permit standards lower than those required by state law.

A variance may be granted only in the event that all of the following circumstances exist:

- (1) The variance is in harmony with the general purpose and intent of the official control.
- (2) The variance is consistent with the intent of the comprehensive plan.
- (3) The property owner proposes to use the property in a reasonable manner not permitted by an official control.

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- (4) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
  - (5) The variance will not alter the essential character of the locality.
  - (6) The practical difficulty includes more than economic considerations alone.
- (k) *Additional considerations in situations involving after-the-fact variances.* In consideration of an after-the-fact variance request, and in addition to the criteria listed in subsection 24-48(j), the board of adjustment shall take into consideration and weigh the following:
- (1) Whether or not the applicant acted in good faith or attempted to comply with this chapter.
  - (2) Whether a substantial investment of money has been made.
  - (3) Whether the construction is fully completed.
  - (4) Whether there are similar structures in the area.
  - (5) Whether the benefit of the county is outweighed by the burden on the applicant, if the applicant is required to comply with this chapter.
- (l) *Other provisions relating to variances.*
- (1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
  - (2) The board of adjustment may impose conditions on the granting of any variance. Conditions are to be directly related to the variance, bear a rough proportionality to the impact created by the variance, and shall be what the board of adjustment considers reasonable and necessary to protect the public health, safety and welfare.
  - (3) A variance shall expire and be considered null and void two years after the issuance of the variance if the use, actions or construction authorized by virtue of the variance has not yet begun. For purposes of this section, construction shall include significant site preparation work including land clearing, excavation, and the installation of utilities necessary for the placement, assembly, or installation of utilities or equipment, the installation of footings, slab, foundation, posts, walls or other portions of a building.
  - (4) The county zoning administrator may, in his or her sole discretion, grant one extension of this time period for up to one year upon a written request of the property owner, if the written request is received at least 30 days prior to the expiration of the two-year period, and if the county zoning administrator determines that reasonable cause for the extension exists.
  - (5) A variance application may not be resubmitted for a period of at least one year from the date the request is denied, unless the zoning administrator determines in his or her sole discretion that the application is substantially changed from the earlier denied request, or that there is new evidence, or that in the opinion of the zoning administrator a substantial change of circumstances exists.
  - (6) A certified copy of any order issued by the board of adjustment acting upon a request for a variance, or upon any appeal from an order, requirement, decision or determination by an administrative official, shall be recorded with the county recorder. The order issued by the board of adjustment shall include the legal description of the property involved. The zoning administrator shall be responsible for the recording of such orders.

(Ord. of 2-28-2012; Ord. of 8-23-2016(2))

**Secs. 24-49—24-80. Reserved.**

## **ARTICLE III. DISTRICT REGULATIONS**

### **DIVISION 1. GENERALLY**

#### **Sec. 24-81. Districts enumerated.**

For the purpose of this chapter, the county is hereby divided into classes of land use districts which shall be designed as follows:

- (a) Agriculture district: A district.
- (b) Conservation district: C district.
- (c) Rural residence district: RR district.
- (d) Rural townsite district: RT district.
- (e) General business district: GB.
- (f) Highway business district: HB district.
- (g) Light industry district: LI district.
- (h) Heavy industry district: HI district.

(Ord. of 2-28-2012)

#### **Sec. 24-82. Official land use district map.**

- (a) *Generally.* The location and boundaries of the districts established by this chapter are hereby set forth on the official land use district map. The official land use district map, referred to in this chapter as "the map," is hereby made a part of this chapter. The map and all notations, references and data shown thereon are hereby incorporated by reference into this chapter and shall be as much a part of it as if all were fully described in this section.
- (b) *Map amendments.* It shall be the responsibility of the zoning administrator to maintain such map, and amendments thereto shall be recorded on such map within 30 days after official publication of amendments. The map shall be kept on file in the zoning administrator's office.
- (c) *District boundaries.* The boundaries between districts are, unless otherwise indicated, the centerlines of highways, roads, streets, alleys or railroad rights-of-way or such lines extended or lines parallel or perpendicular thereto, or section, half-section, quarter-section, quarter-quarter section or other fractional section lines of United States public land surveys. Where figures are shown on the map between a road and a district boundary line, they indicate that the district boundary line runs parallel to the road centerline at a distance therefrom equivalent to the number of feet or other measurement so indicated.

(Ord. of 2-28-2012)

#### **Sec. 24-83. Future detachment.**

Any land detached from an incorporated municipality and placed under the jurisdiction of this chapter in the future, shall be placed in the A district until placed in another district.



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(Ord. of 2-28-2012)

**Sec. 24-84. Vacation of roads.**

When any road, highway, street or other public right-of-way is vacated, the land use classification of land abutting the centerline of the public right-of-way shall not be affected by such proceedings, nor shall the district boundary be affected thereby.

(Ord. of 2-28-2012)

**Sec. 24-85. Relocation of roads.**

When any road, highway, street or other public right-of-way is relocated, the land use classification and district boundary abutting the centerline of the public right-of-way shall be relocated to abut with the centerline of such road, highway, street or other public right-of-way.

(Ord. of 2-28-2012)

**Sec. 24-86. Uses not provided for in land use district.**

Whenever the use is neither specifically permitted nor denied, the use shall be considered prohibited unless the planning agency determines the use similar to other uses listed in that district.

(Ord. of 2-28-2012)

**Sec. 24-87. Appeals relating to district boundaries.**

Appeals from the board of commissioners or any administrative officer's determination of the exact location of district boundary lines shall be heard by the board of adjustment.

(Ord. of 2-28-2012)

**Sec. 24-88. General regulations for all districts.**

Additional requirements and standards in all land use districts are set forth in article IV of this chapter.

(Ord. of 2-28-2012)

**Secs. 24-89—24-110. Reserved.**

*DIVISION 2. A AGRICULTURE DISTRICT*

**Sec. 24-111. Purpose.**

- (a) *Preservation of agriculture land.* The intent of this A district is to allow extensive areas of the county to be preserved for agricultural related uses.

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- (b) *Agriculture operations.* Through the adoption of this subsection, the board of commissioners is expressing its intent to enhance and encourage agricultural operations within the boundaries of the county. The county will view the agriculture district as a zone in which land is used for commercial agricultural production. Owners of property, residents, other users of property in the agriculture zone, and neighboring properties adjacent to the agriculture zone may be subjected to inconvenience or discomfort arising from normal and accepted agricultural practices and operations including, but not limited to; noise, odors, dust, operation of aircraft and late night operation of farm machinery, the storage and application of manure, fertilizers, soil amendments, herbicides and pesticides associated with normal agricultural operations. Owners of property, residents, other users of property in the agriculture zone, and neighboring properties adjacent to the agriculture zone, should be prepared to accept such inconveniences or discomfort from normal operations, and are hereby put on official notice, pursuant to Minn. Stats. § 561.19, that this declaration may prevent them from obtaining a legal judgment against such normal operations.
- (c) *Residential development.* It is the intent of this A district to prevent scattered development.
- (d) *Conservation of natural resources.* It is the intent of this A district to preserve woodlands and other areas of aesthetic and scenic value which, because of their physical features, are desirable as water retention areas, natural habitat for plant and animal life, green space or other uses beneficial to the county.

(Ord. of 2-28-2012)

## **Sec. 24-112. Uses.**

- (a) *Permitted uses.* The following uses are permitted within the A district:
- (1) Accessory buildings which are incidental to the uses in subsection (a), (b), and (c) of this section.
  - (2) Accessory uses which are incidental to the permitted, conditional and interim uses listed in subsection (a), (b), and (c) of this section.
  - (3) Stand-alone accessory buildings as allowed in chapter, 24, section 24-338.
  - (4) Agriculture and incidental agriculture related uses, including agricultural buildings.
  - (5) Essential services and essential public utilities and service buildings, but not including storage yards.
  - (6) Feedlots of 100 animal units or less.
  - (7) Flood control and watershed structures.
  - (8) Level I home occupations as regulated in section 24-326.
  - (9) Land spreading of septage and biosolids as regulated by the state and federal regulations.
  - (10) Manufactured homes constructed and installed according to section 24-308 for temporary purposes while a permanent residence is being constructed.
  - (11) Noncommercial wind energy conversion systems as regulated in section 24-333.
  - (12) One additional accessory dwelling subject to the following:
    - a. Shall be a manufactured home constructed and installed according to standards contained in section 24-308, located on a parcel containing 20 acres or more and not the primary residence on the parcel.
    - b. Shall be an integral part of an agricultural operation to house farm labor.
    - c. Shall be serviced by an approved water and sewage treatment system.

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- d. Shall be removed from the property when no longer used as a dwelling as an integral part of an agricultural operation.
- (13) Parks, recreational areas, wildlife areas, game refuges and forest preserves owned by government agencies.
  - (14) Private swimming pools.
  - (15) Removing or filling 0—500 cubic yards of fill that is not in connection with another permitted or conditional use and shall be reviewed by the planning agency.
  - (16) Seasonal produce sale stands as regulated in section 24-332.
  - (17) Single-family, dwellings, including manufactured homes constructed and installed according to standards contained in section 24-308 and as regulated by this division.
  - (18) Stockpiling of 0—500 cubic yards of fill and shall be reviewed by the planning agency.
  - (19) Small solar energy systems. Small solar energy systems are not allowed in floodplains.
  - (20) Removing, stockpiling, or filling more than 500 cubic yards or disturbing one acre or more of land outside of a public right-of-way for township, county, state or federal road projects shall be reviewed by the planning agency. The requirements and standards in section 6-674 shall be met.
  - (21) Liquid propane storage tanks capable of holding 10,000 gallons or larger.
- (b) *Conditional uses.* The following uses may be allowed in the A district as a conditional use as regulated in article II of this chapter.
- (1) Broadcasting, cellular telecommunication and personal communication services towers and facilities, subject to performance standards contained in section 24-323.
  - (2) Broadcasting facilities, including studios and antennas.
  - (3) Churches, cemeteries and/or memorial gardens.
  - (4) Commercial wind energy conversion systems as regulated in section 24-333.
  - (5) Conversion of existing common interest communities, resorts, manufactured home parks, and other similar pre-zoning ordinance nonconforming developments pursuant to Minn. Stats. chs. 515A, 515B and 327C, where applicable, and requirements of sections 24-354 and 24-47(3).
  - (6) Feedlots over 100 animal units.
  - (7) Golf courses, and golf driving ranges.
  - (8) Grain elevators and feed mills.
  - (9) Manure storage structures capable of handling manure generated by facilities over 100 animal units.
  - (10) Private landing fields and associated facilities.
  - (11) Riding academies and commercial stables.
  - (12) Solid waste landfills as regulated by state and county regulations.
  - (13) Other uses determined by the planning agency to be similar to the uses listed in this subsection.
  - (14) Large solar energy systems. Large solar energy systems are not allowed in floodplains.
  - (15) Solid waste land disposal facilities or solid waste landfills as regulated by state and county regulations.
  - (16) Demolition debris land disposal facilitates as regulated by state and county regulations.

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- (17) Municipal solid waste combustor ash land disposal facilities as regulated by state and county regulations.
  - (18) Compost facilities as regulated by state and county regulations.
  - (19) Source-separated organic material compost facilities as regulated by state and county regulations.
  - (c) *Interim uses.* The following uses may be allowed in the A district as an interim use as regulated in article II of this chapter.
    - (1) Bed and breakfast/inns as regulated in section 24-321.
    - (2) Campgrounds as regulated in section 24-322.
    - (3) Commercial outdoor recreation areas and accessory buildings.
    - (4) Elder care/dependent care as regulated in section 24-324.
    - (5) Extraction of minerals, associated mining and processing activities as regulated in section 24-329.
    - (6) Farm wineries as regulated in section 24-325.
    - (7) Gun clubs.
    - (8) Greenhouses.
    - (9) Kennels as regulated in section 24-328.
    - (10) Land application of nonhazardous industrial waste.
    - (11) Landscape contractors.
    - (12) Level II home occupations as regulated in section 24-326.
    - (13) Organized group camps as regulated in section 24-330.
    - (14) Outdoor firing ranges, subject to performance standards contained in section 24-327.
    - (15) Racetracks.
    - (16) Reception/banquet/meeting halls/retreat centers or facilities as regulated in section 24-331.
    - (17) Removing or filling over 500 cubic yards of fill that is not in connection with another permitted or conditional use.
    - (18) Stockpiling in excess of 500 cubic yards of fill.
    - (19) Storage of septage.
    - (20) Self-service storage facilities (mini-storage) as regulated in section 24-335.
    - (21) Short-term rental units as regulated by section 24-337.

(Ord. of 2-28-2012; Ord. of 2-16-2016; Ord. of 8-25-2020(1); Ord. of 8-25-2020(2); Ord. of 3-23-2021(1), Att. A; Ord. of 5-25-2021(2), Att. A; Ord. of 7-27-2021(1), Att. A; Ord. of 8-24-2021(2), Att. A; Ord. of 1-25-2022(1), Att. 1; Ord. of 1-25-2022(2), Att. A; Ord. of 1-25-2022(3), Att. 1)

### **Sec. 24-113. Height, yard and lot area, width and depth regulations.**

- (a) *Bluff setback.* There shall be a bluff setback in the A district of not less than 30 feet from the top of the bluff and five feet from the toe of the bluff. The zoning administrator may increase the setback if deemed necessary.

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- (b) *Front yard regulations.* There shall be a front yard setback in the A district of not less than 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads. There shall be a front yard setback of not less than 32 feet, measured from the property line (exterior radius) of a cul-de-sac. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway abutting the corner lot.
  - (c) *Height regulations.*
    - (1) No height limitation shall be imposed for agricultural buildings, except where hazardous conditions may result.
    - (2) No residential building, hereafter erected or altered, shall exceed 35 feet or 2½ stories in height.
  - (d) *Lot area regulations.* Every lot, plot or parcel of land on which a dwelling is erected in the A district shall contain a contiguous buildable area of not less than one acre.
  - (e) *Lot frontage.* All newly created lots in the A district shall have at least 150 feet of frontage adjacent to a publicly dedicated road; except for flag lots as specified in chapter 20, article IV, the Blue Earth County Subdivision Ordinance.
  - (f) *Lot width and depth regulations.* Every lot or plot of land on which a dwelling is to be erected in the A district shall have a minimum width of not less than 150 feet and a minimum depth of not less than 175 feet.
  - (g) *Rear yard regulations.* There shall be a rear yard of not less than 50 feet to the dwelling or primary building in the A district. There shall be a rear yard of not less than ten feet for a detached accessory building in the A district.
  - (h) *Setback from feedlots.* Residential dwellings in the A district shall set back as specified in chapter 6, article II, the Blue Earth County Livestock Manure Management Ordinance.
  - (i) *Side yard regulations.* There shall be a side yard of not less than 50 feet on each side of a dwelling or primary building in the A district. There shall be a side yard of not less than ten feet on each side of a detached accessory building in the A district.
  - (j) *County ditch setback.* There shall be a setback of not less than 75 feet from the crown of all open county ditches or from the center of all sub-surface county drain tile to any building in the A district.
  - (k) *Railroad right-of-way setback.* There shall be a setback of not less than 50 feet from the edge of a railroad right-of-way to any building to in the A district.

(Ord. of 2-28-2012; Ord. of 9-22-2020(1))

#### **Sec. 24-114. Density regulations for dwellings.**

- (a) *Permitted dwellings.* In the A district, not more than one dwelling per quarter of a quarter section shall be permitted except that additional dwellings may be allowed subject to the provisions stated in this section.
- (b) *Lots of record.* It is the intent of this section that the total dwellings per quarter of a quarter section (40 acres) in the A district shall not exceed four, except lots of record, recorded at the land records office prior to April 12, 1977, and lots subsequently established in conformance with the zoning ordinance, prior to the adoption of this chapter, shall be considered conforming lots.
- (c) *Bonus lots.* Owners of parcels or tracts of land in the A district, containing 20 or more acres, that include areas which have not been farmed (tilled) within the past ten years prior to the date of the application for a permit, may be permitted one additional bonus dwelling unit upon granting of a conditional use permit

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subject to the provisions of article II of this chapter. With the exception of access, all structures, well(s) and SSTS shall be located entirely upon said untilled areas. The lot shall comply with the height, yard and lot area, width, and depth regulations of this chapter. The bonus lot shall not allow the establishment of more than four dwellings in a quarter of a quarter section (40 acres).

- (d) *Transfer of development rights.* Development rights may be transferred from a quarter of a quarter section to a contiguous (sharing one common boundary or corner point) quarter of a quarter section for the purpose of constructing a dwelling, upon obtaining approval from the Blue Earth County Planning Agency as regulated in section 24-336.

(Ord. of 2-28-2012; Ord. of 7-27-2021(1), Att. A)

**Secs. 24-115—24-135. Reserved.**

*DIVISION 3. C CONSERVATION DISTRICT*

**Sec. 24-136. Purpose.**

The purpose of the C district is to provide a district, based on topographic, physiographic and soil conditions that will provide:

- (a) *Protection of environmentally sensitive areas.* It is the intent of this C district to protect the environmentally sensitive areas in the county.
- (b) *Preservation of natural ground cover.* It is the intent of this C district to preserve major areas of natural ground cover of this county for conservation purposes.
- (c) *Conservation of natural resources.* It is the intent of this C district to deter abuse of water resources and conserve other natural resources of the county.

(Ord. of 2-28-2012)

**Sec. 24-137. Uses.**

- (a) *Permitted uses.* The following uses shall be permitted in the C district:
- (1) Accessory buildings which are incidental to the uses subsections (a), (b) and (c) of this section.
  - (2) Accessory uses which are incidental to the permitted, conditional and interim uses listed in subsections (a), (b), and (c) of this section.
  - (3) Stand-alone accessory buildings as allowed in chapter 24, section 24-338.
  - (4) Agriculture, including agricultural buildings, but excluding the creation of new feedlots.
  - (5) Flood control and watershed structures.
  - (6) Level I home occupations as regulated in section 24-326.
  - (7) Manufactured homes constructed and installed according to section 24-308 for temporary purposes while a permanent residence is being constructed.
  - (8) Noncommercial wind energy conversion systems as regulated in section 24-333.

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- (9) Parks, recreational areas, wildlife areas, game refuges and forest preserves owned or operated by governmental agencies.
  - (10) Private swimming pools.
  - (11) Removing or filling 0—500 cubic yards of fill that is not in connection with another permitted or conditional use and shall be reviewed by the planning agency.
  - (12) Seasonal produce sale stands as regulated in section 24-332.
  - (13) Single-family dwellings, including manufactured homes constructed and installed according to standards contained in section 24-308 and as regulated in this division.
  - (14) Stockpiling of 0—500 cubic yards of fill.
  - (15) Small solar energy systems. Small solar energy systems are not allowed in floodplains.
  - (16) Removing, stockpiling, or filling more than 500 cubic yards or disturbing one acre or more of land outside a public right-of-way for township, county, state or federal road projects shall be reviewed by the planning agency. The requirements and standards in section 6-674 shall be met.
  - (17) Liquid propane storages tanks capable of holding 10,000 gallons or larger.
- (b) *Conditional uses.* The following uses may be allowed in the C district as a conditional use and subject to the provisions of article II of this chapter:
- (1) Conversion of existing common interest communities, resorts, manufactured home parks, and other similar pre-zoning ordinance nonconforming developments pursuant to Minn. Stats. chs. 515A, 515B, and 327C, where applicable, and requirements of sections 24-354 and 24-47(3).
  - (2) Expansion of existing feedlots.
  - (3) Expansion of existing solid waste landfills.
  - (4) Golf courses and golf driving ranges.
  - (5) Water supply buildings, reservoirs, elevated tanks and similar public facilities.
  - (6) Other uses deemed by the planning agency to be of the same general character as those listed as permitted and conditional uses listed in subsections (a) and (b) of this section.
- (c) *Interim uses.* The following uses may be allowed in the C district as an interim use and subject to the provisions of article II of this chapter:
- (1) Bed and breakfast/inns as regulated in section 24-321.
  - (2) Campgrounds as regulated in section 24-322.
  - (3) Commercial outdoor recreation areas.
  - (4) Elder care/dependent care as regulated in section 24-324.
  - (5) Extraction of minerals, associated mining and processing activities as regulated in section 24-329.
  - (6) Farm wineries as regulated in section 24-325.
  - (7) Land spreading of septage and biosolids as regulated by the state and federal regulations.
  - (8) Level II home occupations as regulated in section 24-326.
  - (9) Manure storage structures for existing feedlots.
  - (10) Organized group camps as regulated in section 24-330.

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- (11) Reception/banquet/meeting halls/retreat centers or facilities as regulated in section 24-331.
  - (12) Removing or filling over 500 cubic yards of fill that is not in connection with another permitted or conditional use.
  - (13) Stockpiling in excess of 500 cubic yards of fill.
  - (14) Storage of septage.
  - (15) Large solar energy systems. Large solar energy systems are not allowed in floodplains.
  - (16) Short-term rental units as regulated by section 24-337.

(Ord. of 2-28-2012; Ord. of 2-16-2016; Ord. of 8-25-2020(1); Ord. of 3-23-2021(1), Att. A; Ord. of 7-27-2021(1), Att. A; Ord. of 8-24-2021(2), Att. A; Ord. of 1-25-2022(1), Att. 1; Ord. of 1-25-2022(2), Att. A; Ord. of 1-25-2022(3), Att. 1)

### **Sec. 24-138. Height, yard and lot area, width and depth regulations.**

- (a) *Bluff setback.* There shall be a bluff setback in the C district of not less than 30 feet from the top of the bluff and five feet to the toe of the bluff. The zoning administrator may increase the setback if deemed necessary.
- (b) *Front yard regulations.* There shall be a front yard setback in the C district of not less than 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads. There shall be a front yard setback of not less than 32 feet, measured from the property line (exterior radius) of a cul-de-sac. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway abutting the corner lot.
- (c) *Height regulations in the C district.*
  - (1) No height regulation shall be required for agricultural buildings, except where hazardous conditions may result.
  - (2) No residential building, hereafter erected or altered, shall exceed 35 feet, or 2½ stories.
- (d) *Lot area regulations.* Every lot or plot of land on which a dwelling is to be erected in the C district must have a contiguous buildable area of not less than one acre.
- (e) *Lot frontage.* All newly created lots in the C district shall have at least 150 feet of frontage adjacent to a publicly dedicated road.
- (f) *Lot width and depth regulations.* Every lot or plot of land on which a dwelling is to be erected in the C district shall have a minimum width of not less than 150 feet and a minimum depth of not less than 175 feet.
- (g) *Rear yard regulations.* There shall be a rear yard of not less than 50 feet to the dwelling or the primary building in the C district. There shall be a rear yard of not less than ten feet for a detached accessory building in the C district.
- (h) *Setback from feedlots.* Residential dwellings in the C district shall set back as specified chapter 6, article II, the Blue Earth County Livestock Manure Management Ordinance.
- (i) *Side yard regulations.* There shall be a side yard of not less than 50 feet on each side of a dwelling or primary building in the C district. There shall be a side yard of not less than ten feet for a detached accessory building in the C district.
- (j) *County ditch setback.* There shall be a setback of not less than 75 feet from the crown of all open county ditches or from the center of all sub-surface county drain tile to any building in the C district.



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- (k) *Railroad right-of-way setback.* There shall be a setback of not less than 50 feet from the edge of a railroad right-of-way to any building to in the C district.

(Ord. of 2-28-2012; Ord. of 9-22-2020(1))

**Sec. 24-139. Density regulations for dwellings.**

- (a) *Permitted dwellings.* In the C district, not more than one dwelling per quarter of a quarter section shall be permitted.
- (b) *Lots of record.* It is the intent of this section that the total dwellings per quarter of a quarter section (40 acres) in the C district shall not exceed four, except lots of record, recorded at the land records office prior to June 8, 1996, and lots subsequently established in conformance with the zoning ordinance, prior to the adoption of this chapter, shall be considered conforming lots.
- (c) *Transfer of development rights.* Development rights may be transferred from a quarter of a quarter section to a contiguous (sharing one common boundary or corner) quarter of a quarter section for the purpose of constructing a dwelling, upon obtaining approval from the Blue Earth County Planning Agency as regulated in section 24-336.

(Ord. of 2-28-2012; Ord. of 7-27-2021(1), Att. A)

**Secs. 24-140—24-160. Reserved.**

*DIVISION 4. RR RURAL RESIDENCE DISTRICT*

**Sec. 24-161. Purpose.**

- (a) *Residential development.* The RR district is intended to provide a district which will allow low density residential development in unincorporated areas of the county.
- (b) *District location.* This RR district will be located immediately adjacent to statutory or home rule cities, or with existing rural clusters of dwellings not generally associated with farming.
- (c) *Utility services.* Where practical, water and sewer services shall be attached to approved community or municipal water and sewer systems.

(Ord. of 2-28-2012)

**Sec. 24-162. Uses.**

- (a) *Permitted uses.* The following uses are permitted within the RR district:
- (1) Accessory uses which are incidental to uses in subsections (a), (b), and (c) of this section.
  - (2) Accessory uses which are incidental to the permitted, conditional and interim uses listed in subsections (a), (b), and (c) of this section.
  - (3) Churches.
  - (4) Essential services.

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- (5) Existing agriculture and incidental agriculture related uses, including farm dwellings and agricultural buildings, but excluding confined feedlots.
  - (6) Flood control and watershed structures.
  - (7) Golf courses and golf driving ranges.
  - (8) Noncommercial wind energy conversion systems as regulated in section 24-333.
  - (9) Parks, recreational areas, wildlife areas, game refuges and forest preserves owned by governmental agencies.
  - (10) Private swimming pool when completely enclosed within a chain link or similar security fence at least six feet high.
  - (11) Public and private schools.
  - (12) Removing or filling up to 50 cubic yards of fill that is not in connection with another permitted or conditional use and shall be reviewed by the planning agency.
  - (13) Seasonal produce sale stands as regulated in section 24-332.
  - (14) Single-family dwellings.
  - (15) Small solar energy systems. Small solar energy systems are not allowed in floodplains.
  - (16) Liquid propane storage tanks capable of holding 10,000 gallons or larger.
- (b) *Conditional uses.* The following uses may be allowed as conditional uses in the RR district, subject to the provisions of article II of this chapter:
- (1) Conversion of existing common interest communities, resorts, manufactured home parks, and other similar pre-zoning ordinance nonconforming developments pursuant to Minn. Stats. chs. 515A, 515B and 327C, where applicable, and requirements of sections 24-354 and 24-47(3).
  - (2) Cemeteries, memorial gardens.
  - (3) Golf club houses.
  - (4) Planned unit development, as regulated in article V of this chapter.
  - (5) Railroad right-of-way, but not including railroad yards.
  - (6) Water supply buildings, reservoirs, elevated tanks and similar essential service buildings.
- Other uses deemed by the planning agency to be of the same general character as those listed as permitted and conditional uses listed in subsections (a) and (b) of this section.
- (c) *Interim uses.* The following uses may be allowed as interim uses in the RR district, subject to the provisions of article II of this chapter:
- (1) Elder care/dependent care as regulated in section 24-324.
  - (2) Level I home occupations as regulated in section 24-326.
  - (3) Municipal administration and service buildings.
  - (4) Removing or filling over 50 cubic yards of fill that is not in connection with another permitted or conditional use.
  - (5) Large solar energy systems. Large solar energy systems are not allowed in floodplains.
  - (6) Short-term rental units as regulated by section 24-337.

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(Ord. of 2-28-2012; Ord. of 2-16-2016; Ord. of 8-25-2020(1); Ord. of 1-25-2022(1), Att. 1; Ord. of 1-25-2022(2), Att. A; Ord. of 1-25-2022(3), Att. 1)

**Sec. 24-163. Height, yard and lot area, width and depth regulations.**

- (a) *Bluff setback.* There shall be a bluff setback in the RR district of not less than 30 feet from the top of the bluff and five feet from the toe of the bluff. The zoning administrator may increase the setback if deemed necessary.
- (b) *Front yard regulations.* There shall be a front yard setback in the RR district of not less than 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads. There shall be a front yard setback of not less than 32 feet, measured from the property line (exterior radius) of a cul-de-sac. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway abutting the corner lot.
  - (1) Variances from the required front yard setback will not be required under the following circumstances: Any construction on a developed property must not encroach closer to the centerline of the road than an existing structure on that property. New structures being proposed on a vacant piece of property must not be constructed closer to the roadway centerline than existing structures on properties immediately adjacent to either side of the vacant property. Planning and zoning staff may require verification from the county engineer that proposed construction will not create hazards to the traveling public before issuing a construction permit as outlined in this section.
  - (2) A variance will be required if any construction is proposed closer to the centerline of an existing road than an adjacent properties except as permitted in this section.
- (c) *Height regulations.* No building hereafter erected or altered in the RR district shall exceed two and one-half stories or 35 feet in height. Accessory buildings sidewall dimensions must not exceed 16 feet in height.
- (d) *Impervious surfaces of lot.* Not more than 40 percent of the lot area shall be covered by impervious surfaces.
- (e) *Lot area regulations.* Every lot or plot of land on which a dwelling is erected in the RR district shall contain a buildable area of not less than one acre.
- (f) *Lot coverage.* Not more than 25 percent of the lot area shall be covered by all buildings.
- (g) *Lot frontage.* All newly created lots in the RR district shall have at least 125 feet of frontage adjacent to a publicly dedicated road.
- (h) *Lot width and depth regulations.* Every lot or plot of land on which a single-family dwelling is erected in the RR district shall have a minimum width of not less than 125 feet and a minimum depth of not less than 175 feet.
- (i) *Rear yard regulations.* There shall be a rear yard of not less than 30 feet to the dwelling in the RR district. There shall be a rear yard of not less than ten feet for a detached accessory building in the RR district. Detached accessory buildings shall not exceed 30 percent of the rear yard in the RR district.
- (j) *Setback from feedlots.* Residential dwellings in the RR district shall set back as specified in chapter 6, article II, the Blue Earth County Livestock Manure Management Ordinance.
- (k) *Side yard regulations.* There shall be a side yard of not less than 15 feet on each side of a dwelling in the RR district. There shall be a side yard of not less than ten feet on each side of a detached accessory building in the RR district.

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- (l) *Special regulations.* Municipal administration and service buildings, public and private schools and water supply buildings, reservoirs, elevated tanks and similar essential service buildings must maintain a minimum setback of 50 feet to any lot line.
  - (m) *County ditch setback.* There shall be a setback of not less than 75 feet from the crown of all open county ditches or from the center of all sub-surface county drain tile to any building in the RR district.
  - (n) *Railroad right-of-way setback.* There shall be a setback of not less than 50 feet from the edge of a railroad right-of-way to any building to in the RR district.

(Ord. of 2-28-2012; Ord. of 9-22-2020(1))

**Secs. 24-164—24-190. Reserved.**

*DIVISION 5. RT RURAL TOWNSITE DISTRICT*

**Sec. 24-191. Purpose.**

- (a) *Multiple residential densities.* The RT district is established to allow a variety of residential densities in townsites, as delineated by the map, or other urbanized areas which are not statutory or home rule cities.
- (b) *Density control.* Residential density in the RT district is controlled inherently by the bulk requirements of the district.

(Ord. of 2-28-2012)

**Sec. 24-192. Uses.**

- (a) *Permitted uses.* The following uses are permitted in the RT district:
  - (1) Accessory buildings which incidental to the uses in subsections (a), (b), and (c) of this section.
  - (2) Accessory uses which are incidental to the permitted, conditional and interim uses listed in subsections (a), (b), and (c) of this section.
  - (3) Churches.
  - (4) Essential services including structures or facilities.
  - (5) Existing agriculture and incidental agriculture related uses, including farm dwellings, and agricultural buildings, but excluding confined feedlots.
  - (6) Flood control and watershed structures.
  - (7) Golf courses, except clubhouses.
  - (8) Noncommercial wind energy conversion systems as regulated in section 24-333.
  - (9) Nursing home.
  - (10) Parks, recreational areas, wildlife areas, game refuges and forest preserves owned by governmental agencies.
  - (11) Private swimming pools when completely enclosed within a chainlink or similar security fence at least six feet high.

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- (12) Public and private schools.
  - (13) Removing or filling up to 50 cubic yards of fill that is not in connection with another permitted or conditional use and shall be reviewed by the planning agency.
  - (14) Seasonal produce sale stands as regulated in section 24-332.
  - (15) Single-family dwellings.
  - (16) Two-family dwellings.
  - (17) Small solar energy systems. Small solar energy systems are not allowed in floodplains.
  - (18) Liquid propane storage tanks capable of holding 10,000 gallons or larger.
- (b) *Conditional uses.* The following uses may be allowed in the RT district, subject to the provisions of article II of this chapter:
- (1) Cemeteries, memorial gardens.
  - (2) Conversion of existing common interest communities, resorts, manufactured home parks, and other similar pre-zoning ordinance nonconforming developments pursuant to Minn. Stats. chs. 515A, 515B and 327C, where applicable, and requirements of sections 24-354 and 24-47(3).
  - (3) Golf club houses.
  - (4) Manufactured home parks containing manufactured homes constructed and installed according to requirements of Minn. Stats. §§ 327.31—327.35 (Minnesota Manufactured Home Building Code), connected to municipal water and sewer, and as regulated in section 24-308.
  - (5) Municipal administration buildings, police and fire stations, community center buildings, public libraries, museums, post offices and other municipal service buildings.
  - (6) Planned unit development as regulated in article V of this chapter.
  - (7) Railroad rights-of-way, but not including railroad yards.
  - (8) Water supply buildings, reservoirs, elevated tanks and similar essential service buildings.
  - (9) Other uses deemed by the planning agency to be of the same general character as those listed as permitted and conditional uses listed in subsections (a) and (b) of this section.
- (c) *Interim uses.* The following uses may be allowed in the RT district as an interim use, subject to the provisions of article II of this chapter:
- (1) Level I home occupations as regulated in section 24-326.
  - (2) Multiple-family dwellings.
  - (3) Public swimming pools, when completely enclosed by a chain link or similar security fence at least six feet in height.
  - (4) Removing or filling over 50 cubic yards of fill that is not in connection with another permitted or conditional use.
  - (5) Large solar energy systems. Large solar energy systems are not allowed in floodplains.
  - (6) Short-term rental units as regulated by section 24-337.

(Ord. of 2-28-2012; Ord. of 2-16-2016; Ord. of 8-25-2020(1); Ord. of 1-25-2022(1), Att. 1; Ord. of 1-25-2022(2), Att. A; Ord. of 1-25-2022(3), Att. 1)

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**Sec. 24-193. Height, yard and lot area, width and depth regulations.**

- (a) *Bluff setback.* There shall be a bluff setback in the RT district of not less than 30 feet from the top of the bluff and five feet from the toe of the bluff. The zoning administrator may increase the setback if deemed necessary.
- (b) *Front yard regulations.* There shall be a front yard setback in the RT district of not less than 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads. There shall be a front yard setback of not less than 32 feet, measured from the property line (exterior radius) of a cul-de-sac. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway abutting the corner lot.
  - (1) Variances from the required front yard setback will not be required under the following circumstances: Any construction on a developed property must not encroach closer to the centerline of the road than an existing structure on that property. New structures being proposed on a vacant piece of property must not be constructed closer to the roadway centerline than existing structures on properties immediately adjacent to either side of the vacant property. Planning and zoning staff may require verification from the county engineer that proposed construction will not create hazards to the traveling public before issuing a construction permit as outlined in this section.
  - (2) A variance will be required if any construction is proposed closer to the centerline of an existing road than adjacent properties except as permitted in this section.
- (c) *Height regulations.* No building hereafter erected or altered in the RT district shall exceed 35 feet in height, or two and one-half stories. Accessory buildings sidewall dimensions must not exceed 16 feet in height.
- (d) *Impervious surfaces of lot.* Not more than 45 percent of the lot area shall be covered by impervious surfaces.
- (e) *Lot area regulations.* Every lot or plot of land on which a dwelling is erected in the RT district shall contain a buildable area of not less than one acre.
- (f) *Lot coverage.* Not more than 30 percent of the lot area in the RT district shall be covered by all buildings.
- (g) *Lot frontage.* All newly created lots in the RT district shall have at least 125 feet of frontage adjacent to a publicly dedicated road.
- (h) *Lot width and depth regulations.* Every lot or plot of land on which a single-family dwelling is erected in the RT district shall have a minimum width of not less than 125 feet and a minimum depth of not less than 175 feet.
- (i) *Rear yard regulations.* There shall be a rear yard of not less than 30 feet for a dwelling in the RT district. There shall be a rear yard of not less than five feet for a detached accessory building in the RT district. Detached accessory buildings shall not exceed 30 percent of the rear yard in the RT district.
- (j) *Setback from feedlots.* Residential dwellings in the RT district shall set back as specified in chapter 6, article II, the Blue Earth County Livestock Manure Management Ordinance.
- (k) *Side yard regulations.* There shall be a side yard having a width of not less than ten feet on each side of a dwelling in the RT district. There shall be a side yard of not less than five feet for a detached accessory building in the RT district.
- (l) *Special regulations.* Municipal administration and service buildings, public and private schools, water supply buildings, reservoirs, elevated tanks and similar essential service buildings, and public swimming pools must maintain a minimum setback of 50 feet to any lot line.

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- (m) *County ditch setback.* There shall be a setback of not less than 75 feet from the crown of all open county ditches or from the center of all sub-surface county drain tile to any building in the RT district.
  - (n) *Railroad right-of-way setback.* There shall be a setback of not less than 50 feet from the edge of a railroad right-of-way to any building to in the RT district.

(Ord. of 2-28-2012; Ord. of 9-22-2020(1))

**Secs. 24-194—24-210. Reserved.**

*DIVISION 6. GB GENERAL BUSINESS DISTRICT<sup>27</sup>*

**Sec. 24-211. Purpose.**

The GB district is intended to provide a district which will allow retail, service and general commercial uses in the small unincorporated urban communities in the county provided these uses can be reasonably accommodated by on-site sewage treatment services as approved by the county environmental services department.

(Ord. of 2-28-2012)

**Sec. 24-212. Uses.**

- (a) *Permitted uses.* The following uses are permitted within the GB district, provided that they do not fall within the definition of adult uses listed in section 4-34 of this Code:
  - (1) Accessory buildings which are incidental to the uses in subsections (a), (b), and (c) of this section.
  - (2) Accessory units which are incidental to the permitted, conditional and interim uses listed in subsections (a), (b), and (c) of this section.
  - (3) Advertising, outdoor devices as regulated in section 24-311.
  - (4) Antique store.
  - (5) Apparel and accessory store.
  - (6) Appliance store, sales and service.
  - (7) Art supply store.
  - (8) Art gallery.
  - (9) Artist studio or school.
  - (10) Bakery retail.
  - (11) Bank, including drive-in bank.
  - (12) Bookstore.
  - (13) Business machines store.
  - (14) Camera and photographic supply store.

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<sup>27</sup>Cross reference(s)—Businesses, ch. 4.

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- (15) Convenience store.
  - (16) Delicatessen store.
  - (17) Dressmaking, seamstress.
  - (18) Drugstore.
  - (19) Essential services.
  - (20) Floral sales.
  - (21) Furniture store and home furnishings.
  - (22) Garden supplies store.
  - (23) Gift, novelty or souvenir store.
  - (24) Government or municipal buildings.
  - (25) Grocery store.
  - (26) Hardware store.
  - (27) Health equipment store.
  - (28) Hobby shop.
  - (29) Interior decorator.
  - (30) Jewelry store.
  - (31) Liquor store (off sale).
  - (32) Locksmith.
  - (33) Luggage store.
  - (34) Music store, accessories and studio.
  - (35) Office of any type.
  - (36) Optician.
  - (37) Optical goods.
  - (38) Paint and wallpaper store.
  - (39) Repair, rental and servicing of any article if the sale is permitted in this GB district.
  - (40) Reception/banquet/meeting halls or facilities as regulated in section 24-331.
  - (41) Shoe repair.
  - (42) Sporting goods store.
  - (43) Stationery store.
  - (44) Tailor.
  - (45) Telephone exchange.
  - (46) Toy store.
  - (47) Travel bureau or agency.
  - (48) Variety store.



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- (49) Small solar energy systems. Small solar energy systems are not allowed in floodplains.
  - (50) Other uses deemed by the planning agency to be of the same general character as those listed as permitted.
  - (51) Liquid propane storage tanks capable of holding 10,000 gallons or larger.
- (b) *Conditional uses.* The following uses may be allowed as conditional uses in the GB district, subject to the provisions of article II of this chapter:
- (1) Any permitted use which generates hazardous byproducts and is not generally considered to be detrimental to adjacent land uses.
  - (2) Other uses deemed by the planning agency to be of the same general character as those listed as conditional uses.
- (c) *Interim uses.* The following uses may be allowed as interim uses in the GB district, subject to the provisions of article II of this chapter:
- (1) Bar, including lounges, nightclubs, on-sale liquor establishments.
  - (2) Barbershop and beauty shop.
  - (3) Gas station or garage.
  - (4) Laundromat.
  - (5) Meat markets and frozen food lockers.
  - (6) Service stations (automobile) and convenience stores with accessory retail sales of gasoline and diesel fuel.
  - (7) Restaurant, cafe or tavern.
  - (8) Large solar energy systems. Large solar energy systems are not allowed in floodplains.
  - (9) Self-service storage facilities (mini-storage) as regulated in section 24-335.

(Ord. of 2-28-2012; Ord. of 2-16-2016; Ord. of 8-25-2020(1); Ord. of 8-25-2020(2); Ord. of 1-25-2022(1), Att. 1; Ord. of 1-25-2022(2), Att. A)

### **Sec. 24-213. Height, yard and lot area, width and depth regulations.**

- (a) *Bluff setback.* There shall be a bluff setback in the GB district of not less than 30 feet from the top of the bluff and five feet to the toe of the bluff. The zoning administrator may increase the setback if deemed necessary.
- (b) *Front yard regulations.* There shall be a front yard setback in the GB district of not less than 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads. There shall be a front yard setback of not less than 32 feet, measured from the property line (exterior radius) of a cul-de-sac. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway abutting the corner lot.
- (1) Variances from the required front yard setback will not be required under the following circumstances: Any construction on a developed property must not encroach closer to the centerline of the road than an existing structure on that property. New structures being proposed on a vacant piece of property must not be constructed closer to the roadway centerline than existing structures on properties immediately adjacent to either side of the vacant property. Planning and zoning staff may require

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verification from the county engineer that proposed construction will not create hazards to the traveling public before issuing a construction permit as outlined in this section.

- (2) A variance will be required if any construction is proposed closer to the centerline of an existing road than adjacent properties except as permitted in this section.
- (c) *Height regulations.* No building in the GB district shall hereafter be erected or structurally altered to exceed 35 feet in height.
- (d) *Impervious surfaces of lot.* Not more than 65 percent of the lot area shall be covered by impervious surfaces.
- (e) *Lot area regulations.* Every lot in the GB district shall have a lot area of not less than one-half acre.
- (f) *Lot coverage regulations.* Not more than 50 percent of the parcel in the GB district shall be occupied by buildings.
- (g) *Lot frontage.* All newly created lots in the GB district shall have at least 100 feet of frontage adjacent to a publicly dedicated road.
- (h) *Lot width and depth regulations.* Lots in the GB district shall be at least 100 feet wide at the front property line and shall not be less than 100 feet in depth.
- (i) *Rear yard regulations.* No rear yard is required in the GB district, except where a building abuts the lot line of any residence district; then a 15-foot side yard setback is required.
- (j) *Side yard regulations.* No side yard is required in the GB district, except where a building abuts the lot line of any residence district; then a 15-foot side yard setback is required.
- (k) *County ditch setback.* There shall be a setback of not less than 75 feet from the crown of all open county ditches or from the center of all sub-surface county drain tile to any building in the GB district.
- (l) *Railroad right-of-way setback.* There shall be a setback of not less than 50 feet from the edge of a railroad right-of-way to any building to in the GB district.

(Ord. of 2-28-2012; Ord. of 9-22-2020(1))

**Secs. 24-214—24-230. Reserved.**

***DIVISION 7. HB HIGHWAY BUSINESS DISTRICT<sup>28</sup>***

**Sec. 24-231. Purpose.**

- (a) *Promote development with high volumes of traffic.* The HB district is designed and intended to promote the development of uses which require large concentrations of automobile traffic, provided these uses can be reasonably accommodated by on-site sewage treatment services as approved by the county environmental services department.
- (b) *Accommodate multiple commercial activities.* The HB district is also designed to accommodate those commercial activities whose service are not confined to any one neighborhood or community and which may be incompatible with the predominantly retail uses permitted in other business districts.

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<sup>28</sup>Cross reference(s)—Businesses, ch. 4.

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(Ord. of 2-28-2012)

**Sec. 24-232. Uses.**

- (a) *Permitted uses.* The following uses shall be permitted within the HB district, provided that they do not fall within the definitions of adult uses, as listed in section 4-34 of this Code:
- (1) Accessory buildings which are incidental to the uses listed in subsections (a), (b), and (c) of this section.
  - (2) Accessory uses which are incidental to the permitted, conditional and interim uses listed in subsections (a), (b), and (c) of this section.
  - (3) Advertising. Outdoor devices as regulated in section 24-311.
  - (4) Any permitted use in the GB district.
  - (5) Building materials, lumberyards.
  - (6) Convenience stores.
  - (7) Frozen food lockers.
  - (8) Manufactured home or trailer sales.
  - (9) Noncommercial wind energy conversion system as regulated in section 24-333.
  - (10) Sign contractor.
  - (11) Upholstery shop.
  - (12) Veterinarians, including observation kennels for household pets; provided, however, that all such kennels are located within enclosed structures.
  - (13) Warehousing.
  - (14) Wholesaling.
  - (15) Small solar energy systems. Small solar energy systems are not allowed in floodplains.
  - (16) Other uses deemed by the planning agency to be of the same general character as those listed as permitted.
  - (17) Liquid propane storage tanks capable of holding 10,000 gallons or larger.
- (b) *Conditional uses.* The following uses may be allowed in the HB district, subject to the provisions of article II of this chapter:
- (1) Any conditional use in the GB district.
  - (2) Compost facilities as regulated by state and county regulations.
  - (3) Source-separated organic material compost facilities as regulated by state and county regulations.
  - (4) Recycling facilities as regulated by state and county regulations.
  - (5) Solid waste transfer facilities as regulated by state and county regulations.
- (c) *Interim uses.* The following uses may be allowed as interim uses in the HB district, subject to the provisions of article II of this chapter:
- (1) Adult uses, as defined in and subject to all provisions of article II of chapter 4 of this Code.
  - (2) Any interim use in the GB district.

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- (3) Any permitted use which generates hazardous byproducts and is not generally considered to be detrimental to adjacent land uses.
  - (4) Auto sales and service.
  - (5) Bulk fuel sales and storage facilities.
  - (6) Farm implement sales, repair and storage.
  - (7) Indoor firing ranges, subject to performance standards contained in section 24-327.
  - (8) Marine sales and service.
  - (9) Nursery, retail.
  - (10) Service stations (automobile) and convenience stores with accessory retail sales of gasoline and diesel fuel.
  - (11) Large solar energy systems. Large solar energy systems are not allowed in floodplains.
  - (12) Other uses deemed by the planning agency to be of the same general character as those listed as interim uses.
  - (13) Self-service storage facilities (mini-storage) as regulated in section 24-335.

(Ord. of 2-28-2012; Ord. of 2-16-2016; Ord. of 8-25-2020(1); Ord. of 8-25-2020(2); Ord. of 1-25-2022(1), Att. 1; Ord. of 1-25-2022(2), Att. A)

### **Sec. 24-233. Height, yard and lot area, width and depth regulations.**

- (a) *Bluff setback.* There shall be a bluff setback in the HB district of not less than 30 feet from the top of the bluff and five feet from the toe of the bluff. The zoning administrator may increase the setback if deemed necessary.
- (b) *Front yard regulations.* There shall be a front yard setback in the HB district of not less than 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads. There shall be a front yard setback of not less than 32 feet, measured from the property line (exterior radius) of a cul-de-sac. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway abutting the corner lot.
  - (1) Variances from the required front yard setback will not be required under the following circumstances: Any construction on a developed property must not encroach closer to the centerline of the road than an existing structure on that property. New structures being proposed on a vacant piece of property must not be constructed closer to the roadway centerline than existing structures on properties immediately adjacent to either side of the vacant property. Planning and zoning staff may require verification from the county engineer that proposed construction will not create hazards to the traveling public before issuing a construction permit as outlined in this section.
  - (2) A variance will be required if any construction is proposed closer to the centerline of an existing road than adjacent properties except as permitted in this section.
- (c) *Height regulations.* There are no height regulations in the HB district, except where hazardous conditions may exist.
- (d) *Impervious surfaces of lot.* Not more than 65 percent of the lot area shall be covered by impervious surfaces.
- (e) *Lot area regulations.* Every lot in the HB district shall have a minimum lot area of not less than one-half acre.

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- (f) *Lot coverage regulations.* Not more than 50 percent of the parcel shall be occupied by buildings in the HB district.
  - (g) *Lot frontage.* All newly created lots in the HB district shall have at least 150 feet of frontage adjacent to a publicly dedicated road.
  - (h) *Lot width and depth regulations.* Every lot in the HB district shall be not less than 150 feet wide and shall be not less than 150 feet deep.
  - (i) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 15 feet in the HB district, except that no building shall be located within 50 feet of any rear lot line abutting a lot in any of the classes of residence districts.
  - (j) *Side yard regulations.* There shall be a side yard having a width of not less than 15 feet on each side of a building in the HB district, except that no building shall be located within 50 feet of any rear lot line abutting a lot in any of the classes of residence districts.
  - (k) *County ditch setback.* There shall be a setback of not less than 75 feet from the crown of all open county ditches or from the center of all sub-surface county drain tile to any building in the HB district.
  - (l) *Railroad right-of-way setback.* There shall be a setback of not less than 50 feet from the edge of a railroad right-of-way to any building to in the HB district.

(Ord. of 2-28-2012; Ord. of 9-22-2020(1))

**Secs. 24-234—24-250. Reserved.**

*DIVISION 8. LI LIGHT INDUSTRY DISTRICT<sup>29</sup>*

**Sec. 24-251. Purpose.**

The LI district is intended to provide a district that will allow light industrial development in diverse locations throughout the county. The uses are limited to wholesaling, light manufacturing, service and related uses which can be carried on in an unobtrusive manner and which would not be considered detrimental to an adjacent lower intensity district, provided these uses can be reasonably accommodated by on-site sewage treatment services as approved by the county environmental services department.

(Ord. of 2-28-2012)

**Sec. 24-252. Uses.**

- (a) *Permitted uses.* The following uses are permitted within the LI district if they do not generate hazardous byproducts and are not generally considered to be detrimental to adjacent residential and business districts:
  - (1) Accessory buildings which are incidental to the uses in subsections (a), (b), and (c) of this section.
  - (2) Accessory uses which are incidental to the permitted, conditional and interim uses listed in subsections (a), (b), and (c) of this section.
  - (3) Advertising, outdoor devices as regulated in section 24-311.

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<sup>29</sup>Cross reference(s)—Businesses, ch. 4.

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- (4) Bottling establishments.
  - (5) Building materials sales and storage.
  - (6) Cartage and express facilities.
  - (7) Farm implement sales and storage.
  - (8) General light manufacturing, assembly plants and facilities.
  - (9) Mail order houses.
  - (10) Noncommercial wind energy conversion system as regulated in section 24-333.
  - (11) Warehousing and storage facilities.
  - (12) Welding supply.
  - (13) Wholesale business facilities.
  - (14) Small solar energy systems. Small solar energy systems are not allowed in floodplains.
  - (15) Other uses clearly similar to uses permitted in this LI district.
  - (16) Liquid propane storage tanks capable of holding 10,000 gallons or larger.
- (b) *Conditional uses.* The following uses have the potential to generate hazardous byproducts or may be detrimental to adjacent uses. These uses may be allowed in the LI district as a conditional use, subject to the provisions of article II of this chapter, if the hazardous byproducts are controlled and/or activities that are generally considered to be detrimental to adjacent uses are addressed:
- (1) Antennas for radio, television, and broadcasting studios and facilities.
  - (2) Broadcasting, cellular telecommunication and personal communication services towers and facilities, subject to performance standards contained in section 24-323.
  - (3) Bulk fuel sales and storage facilities, but not the collection, storage or processing of waste, used or recyclable petroleum products.
  - (4) Commercial wind energy conversion system as regulated by section 24-333.
  - (5) Service stations (automobile) and convenience stores with accessory retail sales of gasoline and diesel fuel.
  - (6) Electrical products, manufacture and assembly.
  - (7) Electrical substations.
  - (8) Grain elevators and feed mills.
  - (9) Compost facilities as regulated by state and county regulations.
  - (10) Source-separated organic material compost facilities as regulated by state and county regulations.
  - (11) Recycling facilities as regulated by state and county regulations.
  - (12) Solid waste transfer facilities as regulated by state and county regulations.
  - (13) Other uses deemed by the planning agency to be of the same general character as those listed as permitted and conditional uses listed in subsections (a) and (b) of this section.
- (c) *Interim uses.* The following uses have the potential to generate hazardous byproducts or may be detrimental to adjacent uses. These uses may be allowed in the LI district as an interim use, subject to the provisions of

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article II of this chapter, if the hazardous byproducts are controlled and/or activities that are generally considered to be detrimental to adjacent uses are addressed:

- (1) Adult uses, as defined in, and subject to, all provisions of article II of chapter 4 of this Code.
- (2) Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods or products similar to those listed as permitted or conditional uses which conform with the performance standards of this LI district.
- (3) Any permitted use which generates hazardous waste byproducts.
- (4) Automotive, truck and other internal combustion engine equipment repair.
- (5) Cabinet and woodworking establishments.
- (6) Cold storage plants.
- (7) Highway maintenance shops and yards.
- (8) Indoor firing ranges, subject to performance standards contained in section 24-327.
- (9) Large solar energy systems. Large solar energy systems are not allowed in floodplains.
- (10) Other uses deemed by the planning agency to be of the same general character as those listed as interim uses listed in subsection (c) of this section.
- (11) Self-service storage facilities (mini-storage) as regulated in section 24-335.

(Ord. of 2-28-2012; Ord. of 2-16-2016; Ord. of 8-25-2020(1); Ord. of 8-25-2020(2); Ord. of 8-24-2021(2), Att. A; Ord. of 1-25-2022(1), Att. 1; Ord. of 1-25-2022(2), Att. A)

### **Sec. 24-253. Height, yard and lot area, width and depth regulations.**

- (a) *Bluff setback.* There shall be a bluff setback in the LI district of not less than 30 feet from the top of the bluff and five feet from the toe of the bluff. The zoning administrator may increase the setback if deemed necessary.
- (b) *Front yard regulations.* There shall be a front yard setback in the LI district of not less than 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads. There shall be a front yard setback of not less than 32 feet, measured from the property line (exterior radius) of a cul-de-sac. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway abutting the corner lot.
  - (1) Variances from the required front yard setback will not be required under the following circumstances: Any construction on a developed property must not encroach closer to the centerline of the road than an existing structure on that property. New structures being proposed on a vacant piece of property must not be constructed closer to the roadway centerline than existing structures on properties immediately adjacent to either side of the vacant property. Planning and zoning staff may require verification from the county engineer that proposed construction will not create hazards to the traveling public before issuing a construction permit as outlined in this section.
  - (2) A variance will be required if any construction is proposed closer to the centerline of an existing road than adjacent properties except as permitted in this section.
- (c) *Height regulations.* There are no height regulations in the LI district, except where hazardous conditions may exist.

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- (d) *Impervious surfaces of lot.* Not more than 55 percent of the lot area shall be covered by impervious surfaces.
  - (e) *Lot area regulations.* Every individual lot, site or tract shall have an area of not less than one acre in the LI district.
  - (f) *Lot coverage regulations.* Not more than 40 percent of total area of a lot shall be covered by buildings in the LI district.
  - (g) *Lot frontage.* All newly created lots in the LI district shall have at least 150 feet of frontage adjacent to a publicly dedicated road.
  - (h) *Lot width and depth regulations.* Every lot or tract shall have a width of not less than 150 feet and shall be not less than 150 feet deep.
  - (i) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 15 feet in the LI district, except that no building shall be located within 50 feet of any rear lot line abutting a lot in any of the classes of residence districts.
  - (j) *Side yard regulations.* In the LI district there shall be a side yard of not less than 15 feet on each side of a building. Except that no building shall be located within 50 feet of any side lot line abutting a lot in any of the classes of residence districts.
  - (k) *County ditch setback.* There shall be a setback of not less than 75 feet from the crown of all open county ditches or from the center of all sub-surface county drain tile to any building in the LI district.
  - (l) *Railroad right-of-way setback.* There shall be a setback of not less than 50 feet from the edge of a railroad right-of-way to any building to in the LI district.

(Ord. of 2-28-2012; Ord. of 9-22-2020(1))

**Secs. 24-254—24-270. Reserved.**

***DIVISION 9. HI HEAVY INDUSTRY DISTRICT<sup>30</sup>***

**Sec. 24-271. Purpose.**

The HI district is intended to provide a district which will allow heavy industrial uses which, due to their size and nature, would not be compatible with general rural development patterns of the county, provided these uses can be reasonably accommodated by on-site sewage treatment services as approved by the county environmental services department.

(Ord. of 2-28-2012)

**Sec. 24-272. Uses.**

- (a) *Permitted uses.* The following uses are permitted within the HI district if they do not generate hazardous byproducts and are not generally considered to be detrimental to adjacent land uses:
  - (1) Accessory buildings which are incidental to the uses in subsections (a), (b), and (c) of this section.

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<sup>30</sup>Cross reference(s)—Businesses, Ch. 4.



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- (2) Accessory uses which are incidental to the permitted, conditional and interim uses listed in subsections (a), (b), and (c) of this section.
  - (3) Any heavy industrial use that does not generate hazardous byproducts and is not generally considered detrimental to adjacent land uses.
  - (4) Any permitted use in the LI district.
  - (5) Noncommercial wind energy conversion system.
  - (6) Retail and service business establishments related to the operation of an industry district that does not generate hazardous byproducts and is not generally considered detrimental to adjacent land uses.
  - (7) Small solar energy systems. Small solar energy systems are not allowed in floodplains.
  - (8) Liquid propane storage tanks capable of holding 10,000 gallons or larger.
- (b) *Conditional uses.* The following conditional uses have the potential to generate hazardous byproducts or may be detrimental to adjacent uses. These uses may be allowed in the HI district, if the hazardous byproducts are controlled and activities that are generally considered to be detrimental to adjacent uses are addressed:
- (1) Any conditional use in the LI district.
  - (2) Any other heavy industrial use that does not generate uncontrolled hazardous byproducts and which is objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise, or because of subjection of life, health or property to hazard.
  - (3) Cement, lime, gypsum or plaster of paris manufacture.
  - (4) Commercial wind energy conversion system as regulated in section 24-333.
  - (5) Distillation operations.
  - (6) Ethanol plant or alternative energy production plants.
  - (7) Fertilizer manufacture.
  - (8) Gas, illuminating or heating, manufacture.
  - (9) Planned industrial parks.
  - (10) Rendering plants.
  - (11) Compost facilities as regulated by state and county regulations.
  - (12) Source-separated organic material compost facilities as regulated by state and county regulations.
  - (13) Recycling facilities as regulated by state and county regulations.
  - (14) Solid waste transfer facilities as regulated by state and county regulations.
  - (15) Land disposal facilities or solid waste landfills as regulated by state and county regulations.
  - (16) Demolition debris land disposal facilities as regulated by state and county regulations.
  - (17) Municipal solid waste combustor ash land disposal facilities as regulated by state and county regulations.
  - (18) Other uses deemed by the planning agency to be of the same general character as those listed as permitted and conditional uses listed in subsections (a) and (b) of this section.
- (c) *Interim uses.* The following interim uses have the potential to generate hazardous byproducts or may be detrimental to adjacent uses. These uses may be allowed in the HI district, if the hazardous byproducts are controlled and activities that are generally considered to be detrimental to adjacent uses are addressed:

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- (1) Any interim use in the LI district.
  - (2) Extraction of minerals, associated mining and processing activities as regulated in section 24-329.
  - (3) Junkyards and salvage yards.
  - (4) Large solar energy systems. Large solar energy systems are not allowed in floodplains.
  - (5) Other uses deemed by the planning agency to be of the same general character as those listed as interim uses listed in subsections (c) of this section.

(Ord. of 2-28-2012; Ord. of 2-16-2016; Ord. of 8-25-2020(1); Ord. of 8-24-2021(2), Att. A; Ord. of 1-25-2022(1), Att. 1; Ord. of 1-25-2022(2), Att. A)

### **Sec. 24-273. Height, yard and lot area, width and depth regulations.**

- (a) *Bluff setback.* There shall be a bluff setback in the HI district of not less than 30 feet from the top of the bluff and five feet at the toe of the bluff. The zoning administrator may increase the setback if deemed necessary.
- (b) *Front yard regulations.* There shall be a front yard setback in the HI district of not less than 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads. There shall be a front yard setback of not less than 32 feet, measured from the property line (exterior radius) of a cul-de-sac. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway abutting the corner lot.
  - (1) Variances from the required front yard setback will not be required under the following circumstances: Any construction on a developed property must not encroach closer to the centerline of the road than an existing structure on that property. New structures being proposed on a vacant piece of property must not be constructed closer to the roadway centerline than existing structures on properties immediately adjacent to either side of the vacant property. Planning and zoning staff may require verification from the county engineer that proposed construction will not create hazards to the traveling public before issuing a construction permit as outlined in this section.
  - (2) A variance will be required if any construction is proposed closer to the centerline of an existing road than adjacent properties except as permitted in this section.
- (c) *Height regulations.* There are no height regulations in the HI district, except where hazardous conditions may exist.
- (d) *Impervious surfaces of lot.* Not more than 55 percent of the lot area shall be covered by impervious surfaces.
- (e) *Lot area regulations.* Every individual lot, site or tract shall have an area of not less than one acre in the HI district.
- (f) *Lot coverage regulations.* Not more than 40 percent of the total area of a lot shall be covered by buildings in the HI district.
- (g) *Lot frontage.* All newly created lots in the HI district shall have at least 150 feet of frontage adjacent to a publicly dedicated road.
- (h) *Lot width and depth regulations.* Every lot or tract shall have a width of not less than 150 feet and shall not be less than 150 feet deep.
- (i) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 15 feet in the HI district, except that no building shall be located within 50 feet of any rear lot line abutting a lot in any of the classes of residence districts.

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- (j) *Side yard regulations.* There shall be a side yard of not less than 15 feet on each side of a building in the HI district. Except that no building shall be located within 50 feet of any side lot line abutting a lot in any of the classes of residence districts.
  - (k) *County ditch setback.* There shall be a setback of not less than 75 feet from the crown of all open county ditches or from the center of all sub-surface county drain tile to any building in the HI district.
  - (l) *Railroad right-of-way setback.* There shall be a setback of not less than 50 feet from the edge of a railroad right-of-way to any building to in the HI district.

(Ord. of 2-28-2012; Ord. of 9-22-2020(1))

**Secs. 24-274—24-300. Reserved.**

***ARTICLE IV. REQUIREMENTS AND STANDARDS***

It is the intent of this section to guide development so as to create a compatible relationship of land uses by maintaining certain standards. Within the various districts, the permitted uses, conditional uses and accessory uses shall conform to these standards. Standards listed in this section shall be construed as minimum standards, and the board of commissioners may require adherence to approved or suggested state standards.

***DIVISION 1. GENERAL LAND USE STANDARDS***

**Sec. 24-301. Access standards.**

- (a) *Approvals required.* The location and specification of direct access for a driveway and field access to any county road shall be approved by the county highway engineer and zoning administrator prior to any development of the property except as follows:
  - (1) The location and specification of direct access for a driveway and field access to any township road shall be approved by the township board which has jurisdiction.
  - (2) No driveway shall have direct access to any state highway without the prior approval of the state highway engineer of the district therein located.

(Ord. of 2-28-2012)

**Sec. 24-302. Additional requirements, exceptions and modifications.**

- (a) *Height regulations.*
  - (1) Height limitations set forth elsewhere in this chapter may be increased by 100 percent when applied to the following:
    - a. Monuments.
    - b. Flagpoles.
    - c. Cooling towers.
    - d. Elevator penthouses.
    - e. Grain elevators.

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- f. Windmills.
- (2) Height limitations set forth elsewhere in this chapter may be increased with no limitation when applied to the following:
- a. Church spires, belfries or domes which do not contain usable space.
  - b. Water towers.
  - c. Chimneys or smokestacks.
  - d. Radio or television transmitting towers.
  - e. Essential service structures.
- (b) *Yard regulations.* Measurements shall be taken from the nearest point of the wall of a building to the lot line in question, subject to the following qualifications:
- (1) A landing place or uncovered porch may extend into the required front yard to a distance not exceeding eight feet, if the landing place or porch has its floor no higher than the entrance floor of the building.
  - (2) The above-enumerated architectural features may also extend into any side or rear yard to the same extent.
  - (3) A wall, fence or hedge may occupy part of the required front, side or rear yard.
  - (4) On double frontage lots, the required front yard shall be provided on both streets.
  - (5) The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth which may cause danger to traffic on a road by obscuring the view.
- (c) *Lot area regulations.* No lot shall be so reduced that the buildable lot area or dimensions of the open spaces shall be smaller than prescribed in this chapter.
- (d) *Accessory buildings.* In case an accessory building is attached to the main building, it shall be made structurally part of the main building and shall comply in all respects with the requirements of this chapter applicable to the main building. An accessory building, unless attached to and made part of the main building, shall not be closer than five feet to the main building, except as otherwise provided in this chapter. A detached accessory building shall not be located in any required front yard.
- (e) *Buildings to be moved.* Any building or structure which has been wholly or partially erected on any premises, located either within or outside of the county, shall not be moved to and placed upon any other premises in this county until a construction permit is issued. Any such building or structure shall conform to all the provisions of this chapter, in the same manner as a new building or structure.
- (f) *Traffic visibility.* No fence, wall, structure, planting or obstruction shall be erected, established or maintained, on any corner lot exceeding 36 inches in height, as measured from the centerline elevation of the street, which will obstruct the view of a driver of a vehicle approaching the intersection.
- (g) *Fences.* All boundary line fences shall be entirely located upon the private property of the person constructing, or causing the construction of such fence, unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties, provided property survey markers are present and known, otherwise a survey needs to be conducted. No setback requirements shall apply. Fences in the A, C, RR or RT districts shall not exceed six feet in height in the side and rear yards and shall not exceed 42 inches in height in the front yard, except this subsection shall not apply to livestock fences. Fences in the business and industry districts shall not exceed six feet in height, except security fences, which shall not exceed eight feet in height, including barbed wire toppings.

(Ord. of 2-28-2012)

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**Sec. 24-303. Environmental hazard abatement.**

Environmental hazards are a threat to the health safety and general welfare of the public.

- (a) *Abatement of environmental hazards.* Development permits and final plats shall not be approved until all known environmental hazards situated on the subject property have been abated in a manner prescribed by law. Environmental hazards include the following:
- (1) Unused or improperly sealed wells, cisterns, pits, tanks and similar hazards.
  - (2) Unapproved sites where man made articles are stored, abandoned or discarded.
  - (3) Discarded appliances.
  - (4) Inoperative or unlicensed motor vehicles, combustion engines and parts.
  - (5) Any manmade product that is hazardous to life forms, or that has a hazardous byproduct.
  - (6) Abandoned, dilapidated or burned out structures.
  - (7) Derelict manufactured homes.
  - (8) Other uses similar to those listed in this subsection.

(Ord. of 2-28-2012)

Cross reference(s)—Environment, Ch. 6.

**Sec. 24-304. Erosion control.**

- (a) *Generally.* The county hereby adopts by reference Minn. Stats. §§ 103B.301—103B.355 as amended, for the purpose of managing water retention.
- (b) *Impervious surface over one acre.* New development that covers or replaces surface vegetation with an impervious coverage of one acre or more may not take place without the implementation of an approved stormwater management plan. Linear projects such as sidewalks, paths, trails and the reconstruction, repair, reconditioning or resurfacing of existing roads or impervious surfaces are exempt.
- (c) *Development of bluff zones and steep slopes.*
- (1) All development shall conform to the natural limitations presented by the topography and soil as to create the best potential for preventing soil erosion.
  - (2) No structure shall be erected in any bluff zone as defined in this chapter. Essential services shall be exempt from this restriction.
  - (3) Filling or cutting activity in any bluff zone shall be considered an interim use. In no case shall cutting or filling be allowed for the purpose of establishing a site for the erection of a structure.
  - (4) No structure shall be erected within 30 feet of the top of a bluff. If the adjacent bluff is actively eroding, the zoning administrator may increase the setback requirement.
  - (5) Development on steep slopes with a grade between eight to 18 percent shall be carefully reviewed to ensure adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- (d) *Erosion and sediment control.*
- (1) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control

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- erosion. The county may require a stormwater drainage and erosion control plan by a certified registered professional engineer.
- (2) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
  - (3) The drainage system shall be constructed and operational as quickly as possible during construction.
  - (4) Whenever possible, natural vegetation shall be retained and protected.
  - (5) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a minimum depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
  - (6) When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed 60 days. Such time period may be extended only if the planning commission is satisfied that adequate protective measures have been established and will remain in place.
  - (7) The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Stormwater drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage and construction costs.
- (e) *Exposed slopes.* The following measures shall be taken to control erosion during construction or development:
- (1) No exposed slope should be steeper in grade than three feet horizontal to one foot vertical.
  - (2) At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin before being allowed to enter the natural drainage system.
  - (3) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind such berm cannot be diverted elsewhere and must be directed down slope, appropriate measures shall be taken to prevent erosion. Such measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, an energy dissipater should be installed to prevent erosion at the discharge end. Where appropriate, the county may require a drop structure be constructed to soil and water conservation district standards.
  - (4) Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blanket, erosion mat, fast growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes and netting, or worked into the soil to provide additional slope stability.
  - (5) Control measures, other than those specifically stated in this subsection, may be used in place of such measures if they will as effectively protect exposed slopes.
- (f) *Filling.* Filling in excess of 500 cubic yards of fill in the A and C district and in excess of 50 cubic yards of fill in the RR and RT districts; that is not in connection with any other permitted use, except when constructing an approved sanitary subsurface sewage treatment system, shall require an interim use permit.
- (g) *Preservation of natural drainageways.*

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(1) *Waterways.*

- a. The use of storm sewers is not an acceptable alternative to the use of the natural aboveground drainage system to dispose of runoff. Storm sewers may only be used where it can be demonstrated that the use of the aboveground natural drainage system will inadequately dispose of runoff.
- b. The widths of a constructed waterway shall be sufficiently large enough to adequately channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached. An engineering report may be required in order to prove waterway adequacy.
- c. No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
- d. The banks of the waterway shall be protected with a permanent turf vegetation.
- e. The banks of the waterway should not exceed three feet horizontal to one foot vertical in gradient.
- f. The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion to the banks of the waterway.
- g. The bed of the waterway should be protected with turf, sod or concrete. If turf or sod will not function properly, riprap may be used. Riprap shall consist of quarried limestone, fieldstone, if random riprap is used. The riprap shall be no smaller than two inches square or no larger than two feet square. Any other forms of riprap shall require an interim use permit.
- h. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and such velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or riprap would be allowed to prevent erosion at these points.
- i. A buffer strip of one rod shall be maintained in permanent vegetation on each side of the waterway.

(2) *Waterway velocity.*

- a. The flow velocity of runoff in waterways shall be controlled to a velocity that will not cause erosion of the waterway.
- b. Flow velocity should be controlled through the installation of diversions, berm, slope drains, and other similarly effective velocity control structures.

(3) *Sediment control.*

- a. To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
- b. Temporary pervious sediment traps may consist of a construction of bales of hay with a low spillway embankment section of sand and gravel or specifically designed fabric fences that permits a slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction stage of development.
- c. Permanent impervious sediment control structures consist of sediment basins (debris basins, silt basins or traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

(4) *Maintenance of erosion control systems.*

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- a. The erosion and velocity control structures shall be maintained in a condition that will ensure continuous functioning.
  - b. Sediment basins shall be maintained as the need occurs to ensure continuous desilting action.
  - c. The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basins and waterways shall be landscaped.
  - d. Prior to the approval of any plat for development, the developer shall make provisions for continued maintenance of the erosion control system.

(Ord. of 2-28-2012; Ord. of 1-19-2021(1), Att. A)

Cross reference(s)—Erosion and sediment control.

### **Sec. 24-305. Essential services.**

- (a) *Generally.* Essential services have an effect upon urbanizing areas of the county, land uses, highway location, park and recreation areas, preservation of natural environmental areas, lakes, streams and rivers. The plans for the construction or modification of essential services shall be filed with the county, and a permit obtained, prior to beginning any condemnation action or construction.
- (b) *Station to station transmission.* Applications for essential services being transferred from station to station, to be located parallel to a county highway, and not intended for local distribution service shall be processed as follows:
  - (1) The applicant shall file with the County Engineer and the Zoning Administrator maps indicating the location, alignment and type of the essential service proposed. If the essential service exceeds review thresholds for an environmental assessment worksheet (EAW), or environmental impact statement (EIS), as set forth in Minn. Rules, ch. 4410, the application shall include a copy of the EAW or EIS. The county will act within 60 days, upon acceptance of an application, with all supporting documents and fees.
  - (2) All maps and accompanying data furnished by the applicant, together with comments from the administrator and engineer, shall be forwarded to the planning commission for a public hearing and review. In the process of review, the planning commission may require the applicant to furnish additional information necessary for their decision and recommendation to the board of commissioners.
- (c) *Local distribution services.* Applications for essential services to be located parallel to a county highway and for immediate local distribution to the general public shall be processed as follows:
  - (1) The applicant shall file an application with the engineer, on forms supplied by the engineer, with maps showing the location, alignment and type of service proposed.
  - (2) The application and accompanying data will be reviewed by the engineer, who will issue the permit normally within 14 days after determining that the application is complete and the proposal is acceptable.
  - (3) The engineer may require in conjunction with the issuance of a permit that:
    - a. The applicant submit as-built drawings after the construction is completed.
    - b. The applicant construct the essential services to take into consideration contemplated widening, regrading or relocation of a county highway or county state aid highway.
    - c. Other requirements as determined by the engineer after discussion with the essential service provider.



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- (d) *New essential services and substantial reconstruction setback.* It is the intention of this chapter that essential services, not including transmission lines greater than 69 kilovolts, shall be located entirely within a public right-of-way, or set back a minimum of 130 feet from the centerline of any road on the county highway system when the following conditions exist:
- (1) When an essential service is to be constructed where it did not previously exist.
  - (2) The substantial reconstruction of an existing essential service.
  - (3) Other similar facilities defined in subsection 24-3(b), as determined by the county engineer after discussion with the essential service provider.

When essential services are to be relocated outside of the highway right-of-way as a result of this subsection, the county engineer will notify the affected property owner and the reasons for the relocation.

- (e) *Maintenance exceptions.* The following exceptions are permitted without compliance with subsection (d) of this section:
- (1) The minor, normal maintenance of existing lines and substations.
  - (2) Service to individual users.
  - (3) Essential service fed to the road right-of-way or easement of another jurisdiction from an essential service installed parallel to a road of the county highway system.
- (f) *Variance.* Pursuant to section 24-48(e), the owner may apply for a variance from the setback requirements of this section, including within private easements, when a practical difficulty exist.

(Ord. of 2-28-2012)

## **Sec. 24-306. General provisions.**

- (a) *Dust.* Solid or liquid particulate shall not be emitted at any point in concentrations exceeding the State or Federal EPA standards.
- (b) *Explosives.* Any use requiring the storage, utilization or manufacturing of explosive products which could degrade and become unstable shall comply with the state fire and safety rules, and shall not be located less than 400 feet from any R district line.
- (c) *Exterior lighting.* Any lights used for exterior illumination shall be directed away from adjoining properties.
- (d) *Glare.* Glare, whether direct or reflected, such as from floodlights, as differentiated from general illumination, shall not be directed at or illuminate adjacent properties.
- (e) *Landscaping standards.* All required yards shall either be landscaped or be left in a natural state. Any areas left in a natural state shall be properly maintained in a well-kept condition. GB, HB, LI, and HI districts adjoining the RR or RT districts shall be landscaped with buffer planting screens. Plans of such screens shall be submitted for approval as a part of the site plan and in conjunction with a construction permit application installed prior to occupancy.
- (f) *Noise standards.* Noise shall be measured on any property line of the tract on which the operation is located, and shall be muffled so as not to become objectionable due to interference, beat frequency, shrillness or intensity. Noise generated by agricultural use shall be exempted.
- (g) *Odors.* Any use established, enlarged or remodeled shall be so operated to minimize the emission of odorous matter beyond the lot line of the site on which such use is located.
- (h) *Smoke and particulate matter.* Any use established, enlarged or remodeled after June 8, 1996, shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to,

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or shall endanger the public safety, health, comfort or general welfare of the public and comply with the state standards.

- (i) *Toxic or noxious matter.* Any use established shall be so operated as not to discharge across the boundaries of the lot or through percolation into the subsoil toxic or noxious matter exceeding the state and Federal EPA standards.
- (j) *Vibration.* Any use creating periodic earthshaking vibrations shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. The standard shall not apply to vibrations created during the process of construction.

(Ord. of 2-28-2012)

### **Sec. 24-307. Lots of record.**

- (a) *Establishment.* All lots, parcels, tracts and other legally described land, the deed to which has been recorded in the land records office, and which was in compliance with the official controls in effect at the time of recording, shall be considered to be a lot of record and shall be considered legally developable provided all sewage treatment and water well standards and land use district setback requirements can be met. Outlots shall not be considered developable.

(Ord. of 2-28-2012)

### **Sec. 24-308. Manufactured homes; requirements.**

This section addresses performance standards for the establishment and placement of manufactured homes.

- (a) All manufactured homes brought into or relocated in unincorporated areas of the county shall be attached to permanent concrete frost footings or frost piers extending a minimum of 42 inches below grade. Construction and installation shall comply with requirements of Minn. Stats. § 327.31—327.35 (Minnesota Manufactured Home Building Code). All manufactured homes must have the wheels removed, be anchored and be skirted. A manufactured home constructed on or before July 1, 1972, is prohibited unless it has been upgraded to meet minimum requirements for manufactured homes constructed after July 1, 1972.
- (b) A manufactured home constructed and installed according to provisions of subsection 24-308(a) may be allowed in the A or C districts, for purposes of temporary housing while a permanent structure is being built. The temporary permit may not exceed two (2) years. Such permits shall be renewed on or before the anniversary date of the original permit.
- (c) Manufactured home parks shall contain manufactured homes constructed and installed according to requirements of Minn. Stats. §§ 327.31—327.35, and must be connected to municipal water and sewer, and must meet the standards of the state department of health and other requirements of this chapter. All manufactured homes permitted under this section must have the wheels removed, be anchored and be skirted.
- (d) Storm shelters meeting the requirements of Minn. Stats. § 327.205 shall be provided for all manufactured home parks.
- (e) *Derelict manufactured homes.* Existing structures meeting the definition of "manufactured home, derelict" as cited in this chapter, section 24-3(b), definitions and word usage, are prohibited. Any remaining derelict manufactured homes must be removed from the premises and properly disposed of. Said derelict manufactured homes shall not be used as storage structures.

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(Ord. of 2-28-2012)

**Sec. 24-309. Non-conformities.**

- (a) *Continuation of nonconformity; limitations.* Except as provided in subsection (b); any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, although the use or occupation does not conform to the official control. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
- (b) *Nonconformities; certain classes of property.* This subsection applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(Ord. of 2-28-2012)

**Sec. 24-310. Parking and loading regulations.**

- (a) *Generally.* All parking hereafter constructed or maintained shall conform with the provisions of this section and any other ordinances or regulations of the county.
- (b) *Minimum parking space size regulations.* Each space shall contain a minimum area of not less than 300 square feet, including access drives; a width of not less than nine feet; and a depth of not less than 19 feet. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve.
- (c) *Reduction and use of parking and loading space.* On-site parking facilities existing on June 8, 1996, shall not subsequently be reduced to an amount less than that required under this chapter for a similar new building or use. On-site parking facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter. Such required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.
- (d) *Computing parking requirements.* In computing the number of such parking spaces required, the following rules shall govern:

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(Supp. No. 11)

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- (1) Floor space shall mean the gross floor area of the specific use.
  - (2) Where fractional spaces result, the parking spaces required shall be construed to be the next whole number.
  - (3) The parking space requirement for a use not specifically mentioned in this section shall be the same as required for a use of similar nature, as determined by the board of commissioners and the county planning commission.
- (e) *Yards.* GB, HB, LI or HI districts, no parking or loading space shall be located within ten feet of any property line that abuts any RR or RT districts.
  - (f) *Screening and landscaping.* All open automobile parking areas containing more than four parking spaces shall be effectively screened from view on each side adjoining or fronting on any property situated in RR or RT districts by a wall, fence or densely planted compact hedge not less than four feet in height. The screening and landscaping plan shall show plant materials, bed location and other necessary information. The Board of Commissioners may waive this requirement if the closest point of such parking area is at least 75 feet from the nearest residential property line.
  - (g) *Access.* Parking and loading space shall have access from a public right-of-way. The number and width of driveways shall be located to minimize traffic congestion and abnormal traffic hazard. Access to business or industrial uses across property in RR and RT districts is prohibited.
  - (h) *Location of parking facilities.* Required off-street parking space shall be provided on the same lot as the principal building or use, except as provided in subsection (i) of this section.
  - (i) *Combined facilities.* Combined or joint parking facilities may be provided for one or more buildings or uses in the GB and HB districts and in LI and HI districts, provided that the total number of spaces shall equal the sum of the requirements for each use.
  - (j) *Construction and maintenance.* In GB and HB districts and in LI and HI districts, parking areas and access drives shall be covered with a dustfree, all-weather surface with proper surface drainage, as required by the county engineer. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a slightly and well-kept condition.
  - (k) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public rights-of-way so as not to create a nuisance.
  - (l) *Site plan.* All plans submitted for a land development permits requiring more than four parking spaces or loading facilities shall include a site plan approved by the planning agency. The site plan shall be a part of the construction permit and occupancy and/or operations may not commence until all items shown on the site plan for parking and loading facilities have been completed. The site plan should include at least the following:
    - (1) Land use district, setbacks and statement of use.
    - (2) North point and scale.
    - (3) All adjacent rights-of-way.
    - (4) Entire ownership of lot or parcel being developed.
    - (5) Completely dimensioned parking layouts.
    - (6) Emergency vehicle access.
    - (7) Owner's name and current address.
    - (8) Location and type of screening or landscaping, when required.

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- (9) Other information required by the planning agency or by this chapter.
- (m) *Application of parking and loading regulations.* Parking and loading regulations shall apply to all buildings and uses of land established after June 8, 1996.
- (n) *Parking of commercial vehicles or equipment.* No commercial vehicles, trailers or equipment shall be parked, stored or otherwise contained in a RR or RT district unless in a completely enclosed structure, or unless they are being used in conjunction with a legitimate service being rendered for the benefit of the residential premises.
- (o) *Parking and storage of vehicles.* Automotive vehicles or trailers of any kind or type without current legal license plates or those inoperable shall not be parked or stored on any property zoned C, RR or RT other than in completely enclosed buildings.
- (p) *Required number of on-site parking spaces.* On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. The minimum number of required on-site parking spaces are as follows:
- (1) *Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials sale, auto repair:* Six parking spaces for the first 500 square feet, plus one space for each additional 1,000 square feet of display area.
  - (2) *Automobile service station:* Three for each service stall, plus one parking space for each attendant on the major shift.
  - (3) *Churches:* One parking space for each three seats, based on the design capacity of the main seating area.
  - (4) *Golf course, golf clubhouse, country club, swimming club, tennis club, public swimming pool:* 50 parking spaces.
  - (5) *Nursing home:* One parking space for each four beds, plus one parking space for each three employees on the major shift.
  - (6) *Multiple dwelling or manufactured home park:* Two parking spaces per dwelling unit, apartment unit or manufactured home site.
  - (7) *Motel or motor hotel:* One parking space for each rental room or suite.
  - (8) *Municipal administration buildings, community center, public library, museum, art galleries, post office, public service buildings, convention halls, arenas etc.:* Ten parking spaces, plus one parking space for each 500 square feet of floor area in the principal structure.
  - (9) *Professional offices, office buildings, animal hospital, retail and service establishments:* One parking space for each 250 square feet of gross floor area.
  - (10) *Restaurant, café, nightclub, tavern or bar:* One parking space for each four seats based on design capacity, plus one parking space for each two employees.
  - (11) *Single-family dwelling:* Two parking spaces per dwelling unit. Garage spaces will count toward fulfilling this requirement.
  - (12) *Storage, wholesale/warehouse establishments, research, experimental or testing stations:* One parking space for each employee on the major shift or one parking space for each 300 square feet of gross floor area within the building, whichever is the greater.
- (q) *Required number of on-site loading spaces.* The minimum number of off-street loading and unloading spaces are as follows:

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- (1) *Retail stores, service establishments and office buildings:* One space for the first 10,000 square feet of gross floor area and one space for each additional 50,000 square feet of gross floor area.
  - (2) *Nursing homes, etc.:* One space, plus one additional space for each 100,000 square feet of gross floor area.
  - (3) *Restaurants:* One space for structures over 10,000 square feet of gross floor area.
  - (4) *Manufacturing, fabrication, warehousing, storing, etc.:* One space for each 30,000 square feet of gross floor area.

(Ord. of 2-28-2012)

### **Sec. 24-311. Signs.**

This section is established to protect and promote health, safety, general welfare and order within the county through the establishment of comprehensive and uniform standards, regulations, and procedures governing the type, numbers, size, structure, location, height, lighting, erection, use or display of devices within or upon public rights-of-way or private properties.

- (a) *Compliance with section provisions.* Hereafter, no sign shall be erected, constructed, altered or modified except as regulated by the provisions of this section.
- (b) *Sign permits; required.* No sign shall be erected, re-erected or altered unless a permit has been obtained, unless no permit is required pursuant to subsection 24-311(d).
- (c) *Application for a sign permit shall be made in writing on forms furnished by the zoning administrator.* No separate land use development permit shall be required, but the zoning administrator may require filing of plans or other pertinent information where such information is necessary to ensure compliance with this chapter.
- (d) *Exempted signs; no permit required.* The following signs need no permit, but shall conform to the requirements of this section:
  - (1) Signs for single-family or two-family dwellings identifying the occupant or street address, provided that such signs are less than one square foot in area.
  - (2) Pedestrian, vehicular-traffic and parking directional signs in parking lots, provided that such signs are less than eight square feet in area and six feet in height. Such signs shall not be included in determining allowable signage.
  - (3) Public signs, street signs, warning signs, railroad crossing signs or signs of public service companies for the purpose of safety.
  - (4) Signs denoting the architect, engineer, contractor or owners, when placed upon a work site. Such signs shall be removed within ten days after completion of construction.
  - (5) Signs designating candidates seeking public political office, provided that such election sign shall not exceed eight square feet in size. Such signs shall be located on private property and shall not be located on any intersection so as to obstruct vehicular lines of sight.
  - (6) Signs or posters attached or painted on the inside of a display window. This shall include illuminated signs, but not flashing signs.
  - (7) Flags, badges or insignia of any government, governmental agency, or any civic, religious, fraternal or similar organization.
  - (8) Emergency signs required by any governmental agency.

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- (9) Temporary real estate signs pertaining only to the sale, rental or development of the lot upon which displayed. Such signs shall not exceed six square feet for residential property or 24 square feet for other property. One sign shall be permitted for each lot and must be removed within ten days following the sale, lease or development.
  - (10) Banners placed on private property for advertising a special sales event or grand opening.
  - (11) Memorial signs or tablets, names of buildings and date of erection when cut into or attached to any masonry surface or incombustible material.
  - (12) Level I home occupation signs, non-illuminated, attached to the wall of a dwelling, and not exceeding one and one-half square feet in area.
  - (13) Temporary real estate development signs pertaining to the sale, rental or development of the premises upon which displayed. One sign is permitted per development. No sign shall exceed 32 square feet. Signs shall be properly maintained and removed when 80 percent of the project is sold, rented or developed.
  - (14) Agricultural related signage, nonilluminated, and not be located on any intersection so as to obstruct vehicular lines of sight. Not to exceed 32 square feet in size.
- (e) *Prohibited signs.* The following signs are prohibited:
- (1) Signs that by reason of position, shape or color, would interfere with the proper function of a traffic sign or signal or be misleading to vehicular traffic.
  - (2) Signs within a public right-of-way or easement, except for signs installed by governmental subdivisions.
  - (3) Signs that resemble any official marker erected by a governmental agency or that display such words as "stop" or "danger," and are not erected by legal authority.
  - (4) Signs attached to trees or utility poles.
  - (5) Signs with rotating beam or flashing illumination.
  - (6) Signs advertising by letters, words or figures painted upon any road within the county.
  - (7) Advertising signs painted on any exterior building surface. Such signs shall be on a separate frame and shall not extend beyond 18 inches from the wall surface.
  - (8) Trademark signs in excess of two per business.
  - (9) Signs which project over a public right-of-way.
  - (10) Rotating signs.
  - (11) Signs painted or attached to vehicles or trailers where the vehicle or trailer is parked on a property and not intended to be moved.
- (f) *General requirements.*
- (1) *Maintenance of sign.* All signs shall be maintained by the owner in a safe condition. A sign shall be repainted whenever its paint begins to fade, chip or discolor.
  - (2) *Removal of sign.* On-premises signs shall be removed from a building and property by the owner of such property within 30 days after termination of the use for which it was intended.
  - (3) *Unsafe sign.* If the zoning administrator shall find that any sign is unsafe, a detriment to the public, not maintained, or constructed, erected or maintained in violation of the provisions of

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this article, the zoning administrator shall give written notice to the property owner to be repaired or removed within a time frame set forth by the zoning administrator.

- (4) *Elevated signs.* In all commercial or industrial zones, the height of any freestanding or pole signs which are intended to be viewed from an elevated four lane highway which identifies highway-oriented businesses and which signs are to be located within 200 feet of the highway right-of-way line may exceed district height standards, provided that the maximum height to the top of the sign shall not exceed 15 feet above the grade elevation of such elevated four lane highway directly adjacent to such property on which the sign is positioned.
- a. Elevated signs shall be separated by 400 feet from another elevated sign.
  - b. Elevated signs adjacent to residential uses shall require the issuance of an interim use permit by the board of commissioners.
- (g) *Nonconforming signs.*
- (1) *Establishment of nonconformity.* Any sign legally existing on or before June 8, 1996, which does not conform to the requirements set forth in this article, shall be considered a nonconforming sign.
  - (2) *Maintenance.* Any sign erected before June 8, 1996, shall not be rebuilt, moved to a new location on the affected property, or altered except for the changing of movable parts of signs which are designed for changes, or the repainting of display matter for maintenance purposes without being brought into compliance with the requirements of this article.
- (h) *Permitted on-premises signs.*
- (1) *A, C, RR and RT district permitted on-premises signs.* The following signs are permitted in A, C, RR and RT districts:
    - a. In a residential district, one non-illuminated nameplate or professional identification of not more than one and one-half square feet in size identifying the owner or occupant.
    - b. Signs advertising the seasonal sale of agricultural products not exceeding 32 square feet in area.
    - c. Religious uses, public institutions, nonresidential, residential development identification signs, and level II home occupation signs not exceeding 32 square feet in area. Such identification signs may be wall-mounted or ground-mounted, or a combination of the two. A ground sign shall not exceed 15 feet in height. There may be a second sign if the use abuts two or more public streets.
    - d. All signs shall be set back five feet from the property line.
  - (2) *GB district permitted on-premises signs.* The total area of all signs shall not exceed two times the front linear frontage of the lot. Lots on intersecting streets or facing two parallel streets shall be permitted 150 percent of the total allowable sign area, with no more than 100 percent on any one street.
    - a. The following signs are permitted in GB districts:
      - 1. Wall or ground signs identifying the name or type of business.
      - 2. Parking signs as regulated in section 34-310.
    - b. The following additional standards apply to GB on-premises permitted signs:
      - 1. Maximum height of a ground sign shall not exceed 30 feet.



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2. Wall signs shall not project in excess of one foot above the roofline.
  3. Roof signs shall not exceed ten feet in height.
  4. Projecting signs, provided that a minimum underside clearance of at least 14 feet is provided.
  5. No more than four signs shall be permitted, including one ground sign per lot.
  6. Ground signs shall be set back a minimum of five feet from lot lines.
  7. Clustered or planned developments located on a single lot shall be permitted one ground (joint identification) sign identifying the name of the development and/or businesses within the development and one wall sign per business. Area of all signs shall not exceed the total allowable signage for the lot.
- (3) *HB on-premises permitted signs.* The total area of all signs shall not exceed three times the front linear frontage of the lot. Lots on intersecting streets or facing two parallel streets shall be permitted 150 percent of the total allowable sign area, with no more than 100 percent on any one street.
- a. The following signs are permitted in HB districts:
    1. Wall or ground signs identifying the name or type of business.
    2. Parking signs as regulated in subsection 24-311(d).
  - b. The following additional standards apply to HB on-premises permitted signs:
    1. Maximum height of a ground sign shall not exceed 40 feet.
    2. Wall signs shall not project in excess of one foot above the roofline.
    3. Roof signs shall not exceed 15 feet in height.
    4. Projecting signs, provided that there shall be not more than one such sign, shall project not more than six feet from the face of the building, and shall have a minimum underside clearance of at least 14 feet.
    5. No more than four signs shall be permitted, not more than two being ground signs per lot.
    6. Ground signs shall be set back a minimum of five feet from lot lines.
    7. Clustered or planned developments located on a single lot shall be permitted one ground (joint identification) sign identifying the name of the development and/or businesses within the development and one wall sign per business. Area of all signs shall not exceed the total allowable signage for the lot.
- (4) *LI and HI on-premises permitted signs.* The total area of all signs shall not exceed two times the front linear frontage of the lot. Area of all signs shall not exceed the total allowable signage for the lot.
- a. The following signs are permitted in LI and HI districts:
    1. Wall or ground signs identifying the name or type of business.
    2. Parking signs as regulated in section 24-310.
- (i) *Off-premises signs.*

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- (1) *Interim use permit required.* Off-premises signs may be allowed pursuant to an interim use permit in GB, HB, LI and HI land use districts. Existing off-premises signs located within the GB, HB, LI, and HI districts may be moved and reconstructed pursuant to an interim use permit, provided that the sign is located along the same right-of-way, is located within the same contiguous zoning district as the existing sign, and complies with all other requirements of this section.
  - (2) *Standards.* Off-premises signage shall meet the following standards:
    - a. Shall not exceed 700 square feet in total area. Maximum allowable signage shall be computed on the basis of one side of any double-faced sign.
    - b. Shall not exceed 30 feet in height, measured from street or highway surface elevation to the highest point of such sign. Signs abutting an elevated state or federal highway may exceed the maximum height requirement, provided that the top of the sign shall not exceed 15 feet above the grade elevation of such elevated four-lane highway directly adjacent to such property on which the sign is positioned.
    - c. Shall not be within 200 feet of a residential land use district, park, playground, school or building used for religious purposes.
    - d. Shall be set back from all street right-of-way lines a minimum of 20 feet, except as provided in subsection 24-311(i)(2)e.
    - e. When a sign is to be located along a designated highway where such sign is not adjacent to a front property line, there shall be a minimum setback of five feet.
    - f. The source light for the purpose of illumination may be indirect or direct and shall not be directed in any way except into the advertising copy.
    - g. The exposed uprights or superstructure shall be painted a neutral color.
    - h. The area around a ground-mounted off-premises sign shall be appropriately landscaped and regularly maintained.
    - i. All ground/pylon support structures shall be monopole design and shall meet appropriate safety/construction codes relating to wind-loading and structural design.
    - j. Off-premises signs located on a roof shall not be permitted.
  - (3) *Mankato urban fringe standards.*
    - a. Within the Mankato urban fringe overlay district, signs shall be located only on state and federal highways.
    - b. Within the Mankato urban fringe overlay district, signs shall be located on a platted lot and shall be considered to be the principal use of the property.
    - c. Within the Mankato urban fringe overlay district off-premises signs on the same side of the street or highway shall have a minimum separation distance of 1,500 feet between signs. In other areas of the county the separation distance shall be 1,000 feet between off-premises signs on the same side of the road.
    - d. Signs shall not be located within 1,000 feet of the middle of intersecting rights-of-way of principal arterials identified in figure 10 of the adopted Mankato Area Transportation and Planning Study (MATAPS) and shall be set back 300 feet from the middle of all other intersecting roadways.

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- (j) *Temporary signs; standards.* Temporary use of signs shall be allowed in excess of and in addition to the sign limitations of this article. The following provisions shall apply:
- (1) Such signs may be located on a property for continuous periods not to exceed 30 days.
  - (2) No property shall be allowed more than four such periods in any 12-month period.
  - (3) Such signs shall comply with setback provisions for ground signs in each land use district.
  - (4) Such signs shall only be permitted in A, C, GB, HB, LI and HI districts.

(Ord. of 2-28-2012; Ord. of 1-19-2021(1), Att. A)

### **Sec. 24-312. Snow drifting.**

No structure shall be erected, trees or bushes planted, or when there is snow on the ground, materials stored, including stacks or bales of fodder and bedding, over three feet in height, nor shall vehicles, trailers, equipment or machinery be parked or temporarily stored within 130 feet from the centerline of a county road without prior review and approval by the county engineer.

(Ord. of 2-28-2012)

### **Sec. 24-313. Utilities.**

- (a) *Generally.* All sewage and water systems hereafter constructed or maintained shall conform with the provisions of this section, and any other applicable ordinances or regulations of the county and the state. The minimum lot area requirement may be increased in order to provide adequate on-site capability for individual sewage disposal systems and water supply wells.
- (b) *Public sanitary sewers.* Public sanitary sewers shall be installed as required by standards and specifications as established by applicable Minnesota Rules or Statutes. Where municipal public sanitary sewer is not available, the board of commissioners may, by resolution allow for such sewers to serve all properties in an area where a complete and adequate community sanitary sewer system and plant are designed, with complete plans for the system required to be submitted to and approved by the board of commissioners, the Minnesota Pollution Control Agency, the Minnesota Department of Health and any other state required agencies before construction. The board of commissioners may require any special data, engineering reports or studies necessary to determine the feasibility of the sewage treatment system. Such additional data shall be submitted by the applicant at no cost to the county.
- (c) *Subsurface sewage treatment systems.* In all land use districts, the location and installation of subsurface sewage treatment systems (SSTS) and each part shall comply with Minnesota Rule 7080-7081 such that, with reasonable maintenance, the SSTS will function in a sanitary manner and will protect public health and safety, groundwater quality, and reduce and/or prevent the development of public nuisances. When conducting a suitability determination for a building lot, accommodations for a SSTS meeting the standards of Minn. Rules, Chapter 7080-7081 and chapter 6 article V of the Blue Earth County Code of Ordinances must be made. If the lot was created after January 23, 1996, the lot must be suitable to accommodate two sewage treatment systems of appropriate size that will comply with Minn. Rules, Chapter 7080-7081 and chapter 6 article V of the Blue Earth Code of Ordinances.
- (d) *Nonconforming subsurface sewage treatment systems.* A sewage treatment system not meeting the requirements of Minn. Rules, Chapter 7080-7081, must be brought into conformance when a land development permit of any type is requested on a property.

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- (e) *Water wells.* All new water wells constructed in the county, whether private or community; shall be constructed in accordance with Minn. Rules Chapter 4720 and 4725, including any revisions or additions to such rules.
  - (f) *Permit required.* A permit shall be required for each subsurface sewage treatment system installed in the county. Such permit will be issued only when a MPCA certified ssts inspector, employed by the county, has determined that the requirements of this chapter and other applicable regulations have been complied with. A permit shall be required for each new drinking, industrial/commercial or irrigation well installed in the county. Such permit will be issued only when a MDH certified well inspector, employed by the county, has determined that the requirements of this chapter and other applicable regulations have been complied with. If an approved municipal water and/or sewer system is reasonably available for use, as determined by the appropriate community; said community may require connection to the community water and/or sewer system. If a SSTS is to be installed within the boundaries of a community, approval from the community must be granted to the county in writing before the county may issue the required permit.

(Ord. of 2-28-2012)

**Secs. 24-314—24-320. Reserved.**

*DIVISION 2. PERFORMANCE STANDARDS*

**Sec. 24-321. Bed and breakfast/inns.**

This section addresses performance standards for the establishment and operation of bed and breakfast/inns as defined by this chapter.

The following standards shall apply to all bed and breakfast/inns:

- (a) They may only occur in an existing owner occupied single family dwelling and the exterior appearance of the structure shall not be altered from its single family character. All guestrooms, shall be located within the principal residential structure.
- (b) Owner must show proof of liability insurance annually.
- (c) An annual inspection by the area serving fire department and environmental services must be established.
- (d) The use shall comply with all applicable federal, state and county rules and regulations.
- (e) The total number of guestrooms shall be limited to four.
- (f) Primary entrance to all guestrooms shall be from within the dwelling.
- (g) A guest register shall be maintained and available for county inspection.
- (h) Guests are limited to a length of stay of no more than seven consecutive days.
- (i) No food preparation or cooking shall be conducted within any of the guestrooms.
- (j) Food service shall be limited to breakfast.
- (k) No other commercial use shall occur on the property, including home occupations. Activities including luncheons, banquets, parties, weddings, meetings, fund raising events or other gatherings for direct or indirect compensation are prohibited in a bed and breakfast/inn.

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- (l) Parking shall be accommodated on the property and parking requirements for guests are in addition to those required for the principal residential use. Additionally, parking shall meet the requirements of 24-310.
  - (m) Signs shall meet the requirements of 24-311.
  - (n) The applicant must insure that all Minnesota Department of Health requirements are met.

(Ord. of 2-28-2012)

### **Sec. 24-322. Campgrounds.**

*Purpose.* This section is established to protect the health, safety, and general welfare within the county through uniform standards and regulations for campgrounds. All campgrounds shall conform to the following standards:

- (a) *Application requirements.* Any person proposing a campground shall make a written land use development application to the county. Application for such permit shall not be complete unless it contains the following:
  - (1) A site plan showing the location of existing wells, sewage treatment systems, buildings, driveways, bluffs, vegetation, steep slopes, lakes, rivers, streams, floodplain boundaries, and wetlands.
  - (2) A site plan showing the proposed location of all improvements including, but not limited to, storage areas, recreation areas, bathroom facilities, solid waste and recycling collection facilities, roadways, trails, parking areas, wells, sewage treatment facilities, stormwater storage, and camp sites with dimensions.
  - (3) Detailed grading plan with two-foot contour intervals.
  - (4) Written description of the operating plan for the campground including all services and activities like large events that are proposed in the campground.
  - (5) Plans for sanitary sewage disposal, water supply systems, emergency shelter and evacuation, electrical service, lighting, landscaping, screening and collection of garbage and refuse.
  - (6) Stormwater pollution prevention plan and operation and maintenance plans for all permanent and temporary stormwater control measures, when applicable.
  - (7) Location and size of all proposed streets and parking areas servicing the campground. Construction plans and specifications for roadways within the campground.
  - (8) Other site-specific information may be required or requested by the county.
  - (9) Application fees.
- (b) *Performance standards.* All campgrounds shall meet the following standards:
  - (1) All sewage and wastewater must be discharged into an approved municipal sewage treatment system if one is available or a subsurface sewage treatment system that meets the requirements of Minnesota Rules Chapter 7080 and the County Code, chapter 6, subsurface sewage treatment systems. No wastewater from recreational camping vehicles shall be deposited on the surface of the ground.
  - (2) Toilet facilities must be provided within 400 feet of any campsite in accordance with Minnesota Rules Chapter 4630.0900.

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- (3) Toilet and shower facilities must be provided in all campgrounds which house recreational camping vehicles which are not equipped with toilet and bathing facilities, in accordance with the schedule and standards in Minnesota Rules Chapter 4630.0900.
  - (4) Sewage dumping station. Campgrounds accommodating recreational camping vehicles having a self-contained liquid waste system with a waste reservoir shall provide a sanitary station for the disposal of wastewater. Sewage dumping stations shall be separated from any camp site by a distance of at least 50 feet. Final disposal of sewage from such dumping stations shall be by a method acceptable to the Minnesota Pollution Control Agency and Department of Health.
  - (5) Water supply. The water supply for all campgrounds must meet all Minnesota Department of Health requirements for public water supplies and water wells. Drinking water from the water supply must be available within 400 feet of every campsite in accordance with Minnesota Rules Chapter 4630.0600.
  - (6) All plumbing must be installed in accordance with the Minnesota Plumbing Code, Minnesota Rules Chapter 4715.
  - (7) Setbacks. All camp sites shall meet the side, rear and front yard setbacks for a primary use of the zoning district where they are located. All campsites must also be outside the bluff impact zone.
  - (8) Floodplain. All campsites must be located outside of the flood fringe, floodway, or general floodplain district.
  - (9) All recreational camping vehicles and their attachments shall be separated from each other or other structures by at least ten feet as required by Minnesota Rules Chapter 4630.0400.
  - (10) Minimum camp site size. All camp sites for recreational camping vehicles shall have a minimum size of 2,000 square feet as required by Minnesota Rules Chapter 4630.0400.
  - (11) The storage, collection, and disposal of refuse and garbage in the campground shall be conducted in accordance with chapter 16 (solid waste management) of the county Code to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.
  - (12) Refuse and garbage collection shall be made at least twice each week and more often where necessary to prevent nuisance conditions. Final disposal of refuse and shall be accomplished at a waste management facility permitted by the state and licensed by the county.
  - (13) Adequate number of fly tight, watertight and rodent proof containers must be provided for all garbage and refuse. Garbage or refuse may not be burned, incinerated or buried on site.
  - (14) All interior streets and roadways in the campground shall be maintained to allow safe passage of normal traffic and emergency vehicles.
  - (15) Each camp site shall have signage identifying the site with a non-duplicated number or letter. The campground operator shall notify the planning agency of any changes so that the 911-emergency response system maps are current.
  - (16) Campgrounds adjacent to private land shall indicate the property boundary through signage, fencing, or other means.
  - (17) All recreational camping vehicles shall have a current state vehicle license for those states that require a license.
  - (18) All campgrounds shall have a property manager. Instructions shall be posted and made available to users of the campground on how to contact that person.

- (19) Campgrounds which require permanent stormwater management facilities or best management practices shall be designed in accordance with the MPCA NPDES construction stormwater permit and Blue Earth County stormwater standards.
- (20) Signage for the campground must meet the standards contained in section 24-311, signs of the county Code.
- (21) Parking for the campground must be off-street and meet the standards contained in section 24-310, parking and loading regulations of the county Code.
- (22) A permanent dwelling for caretaker may be allowed provided the dwelling meets all density and applicable zoning district standards.
- (23) Campgrounds shall be operated on a seasonal basis and may only be open seven months a year.

(Ord. of 2-28-2012; Ord. of 4-27-2021, Att. A)

**Sec. 24-323. Cellular telecommunications and personal communication service towers and facilities.**

This section addresses performance standards for siting, design and installation of towers. Cellular telecommunication and personal communication service towers and facilities are listed as conditional uses in the A, LI and HI districts. The use of property for the installation or construction of cellular telecommunication and personal communication service towers and facilities shall conform to the following standards:

- (a) *Setback.* The tower shall be set back from all property lines a distance equal to or greater than the height of the tower measured from the ground surface to the top of the tower and associated antennas.
- (b) *Location requirements.* Before an applicant wishing to locate a new tower in the county is given permission by the board of commissioners to construct such tower, they must provide documentation proving that it is impractical to collocate on existing structures because of technical performance, system coverage or system capacity, or the lease rate of an existing structure is not rate reasonable. The term "rate reasonable" shall mean that the collocation lease rate is not more than 150 percent of the collocation rate for towers within ten miles for which such lease rate information can be obtained. The determination that location on an existing structure is not practical, because of technical performance, system coverage or system capacity shall be supported by findings from a qualified engineer.
- (c) *Collocation requirements for new structures.* New towers shall be designed and constructed to permit the future collocation of other commercial wireless telecommunications services, according to the following criteria:

| Height of Structure           | Additional Users Facility Must Accommodate |
|-------------------------------|--|
| Less than 100 feet            | No collocation required                    |
| Between 100 feet and 130 feet | 1 additional user accommodated             |
| Between 130 feet and 160 feet | 2 additional users accommodated            |
| 161 feet and greater          | 3 additional users accommodated            |

In satisfying collocation requirements, the owner of the tower must provide adequate access to the tower site and space within the owned or leased area to accommodate collocation user's equipment.

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Nothing in the regulations of this section shall prevent the owner of the tower from requiring a remuneration from a collocation user, provided that such remuneration is rate reasonable. The owner of the tower may also establish reasonable technical requirement for collocation to protect the owner's investment and guarantee effective telecommunication service. The owner of the tower shall have the authority to review all plans for collocation uses and require reasonable modifications for such plans to ensure safe and efficient operation of the communications services and protect the owner's investment.

- (d) *Tower and antenna design.* Towers and antennas shall be located and designed to blend into the surrounding environment to the maximum extent possible. Side elevations of the tower, and/or other visual aids which depict the proposed tower at the chosen location, shall be furnished as part of the conditional use permit application. The aforementioned elevations and/or visual aides shall portray the tower in the surrounding natural environment. Towers shall be of a monopole design unless it is determined that an alternative design would be appropriate for the particular site or circumstance. All towers shall be painted in a color best determined by the county to blend into the particular environment unless alternating red and white colors are required by federal agencies.
- (e) *Tower setbacks.* All towers shall be setback from structures, rights-of-way and property lines at a distance equal to the height of the towers and antennas. The setbacks may be reduced to a distance agreed upon by the county, if the applicant furnishes a registered engineer's certification that the tower is designed to collapse, fall, curl or bend within a distance or zone shorter than the tower height. The county may waive or modify setback requirements for antennas proposed to be collocated on existing towers or structures.
- (f) *Lighting.* Towers shall not be illuminated unless required by a state or federal agency.
- (g) *Security.* The site area for new or modified commercial wireless telecommunications towers shall be adequately fenced in to discourage access by unauthorized persons. The county shall review and approve or modify all plans for fencing and security measures.
- (h) *Accessory structures.* The applicant shall submit site plans, elevation and construction details for all towers, antennas and accessory structures to be located on a site. All equipment must be enclosed within a building. The county may require that any accessory structure be designed compatible with surrounding structures or natural environment and may require that landscaping materials be provided to screen accessory structures or equipment. Collocation users must construct buildings compatible with existing buildings on the premises.
- (i) *Signs.* Signs, other than warning signs, equipment labels, emergency information or owner identification are prohibited on any towers, antennas or accessory structure of equipment. No permitted sign shall exceed three square feet in area.
- (j) *Interference.* No wireless communications service shall be permitted that causes any interference with commercial or private use and enjoyment of other legally operating telecommunications devices including, but not limited to, radios, televisions, personal computers, telephones, personal communications devices, garage door openers, security systems, and other electronic equipment and devices. An applicant must furnish a state registered engineer's certification that no such interference will occur, or identify what interference may occur and how the applicant will mitigate any potential interference that may occur.
- (k) *Construction requirements.* All wireless communication towers, antennas and accessory uses shall be designed and constructed in accordance with all provisions of this chapter and all applicable state and federal codes. All plans must be certified by an engineer registered in the state.
- (l) *Abandonment.* All towers and antennas not used for a period of 12 consecutive months shall be considered abandoned and shall be removed. The applicant must furnish a copy of the relevant portion



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of an executed lease, which identifies the applicant's obligation to remove abandoned or unused towers, concrete footings, anchors, supporting equipment and antennas prior to the issuance of a conditional use permit to erect a tower. The county shall require financial assurances including bonds in an amount sufficient to cover costs of removal of towers, buildings, concrete footings, anchors, supporting equipment and antennas. An engineer's cost estimate which documents removal costs of the tower, building, concrete footings, anchors, supporting equipment and antennas shall be submitted with the conditional use permit application. Such engineer's cost estimate is to assist the board of commissioners in determining the amount of financial assurance necessary to cover removal costs of such towers, buildings, concrete footings, anchors, supporting equipment and antennas. If any towers, buildings, concrete footings, anchors, supporting equipment and antennas have not been removed within 90 days' written notice by the county after abandonment, the county shall have the right to remove the towers, buildings, concrete footings, anchors, supporting equipment and antennas, and assess the property.

- (m) *Other requirements.* The county may require additional information from the applicant and impose additional standards and regulations in approving plans or wireless telecommunications services to ensure and protect the public health, safety and welfare.

(Ord. of 2-28-2012)

### **Sec. 24-324. Elder care/dependent care units.**

The purpose of this section is to allow elder care/dependent care units to provide additional housing opportunities for family members infirmed or with disabilities, their care giver(s), and/or elderly family members with a need for semi-independent living situations. Elder care/dependent care units have been found to be a compatible secondary or subordinate use to single family dwellings that under certain performance standards will not negatively alter the character of the surrounding neighborhood. An elder care/dependent care unit is not designed nor intended to conflict with the purpose and intent of a specific zoning district or act as an alternative to increase residential dwelling density.

- (a) *Permit/application procedures.*
  - (1) In addition to general procedures, standards and criteria provided in this chapter, attached elder care/dependent care units and detached elder care/dependent care units may be allowed in applicable zoning districts provided they are consistent with the eligibility and performance standards outlined in subsections 24-324(c) 24-324(d).
  - (2) Fees. The zoning application fee and annual inspection fee shall be established by resolution of the county board.
- (b) *Eligibility.*
  - (1) Any lot proposed for an elder care/dependent care unit shall contain a principal single family dwelling. Exception for new single family construction. An attached or detached accessory dwelling unit may be approved conditional to the unit being constructed concurrently with the principal single family dwelling.
  - (2) The principal single family dwelling on the lot shall be owner-occupied.
- (c) *Performance standards.*
  - (1) Not more than one elder care/dependent care unit shall be allowed on a lot.
  - (2) Occupancy of the elder care/dependent care unit is limited to family members related by blood, marriage, or adoption and/or their care giver(s). There shall be an annual verification that the

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persons living in the elder care/dependent care unit are family members or the care giver(s) as defined herein.

- (3) Size. In no case shall the total square footage of an accessory dwelling unit be more than 40 percent of the habitable area of the principal single family dwelling, and it shall not exceed more than 800 square feet. For the purposes of elder care/dependent care units within or attached to a garage; only the habitable portion shall be calculated for elder care/dependent care unit size requirements.
  - (4) Amenities. An elder care/dependent care unit shall not contain more than one bathroom, one kitchen (with or without eating area), one utility room, two bedrooms, and one living/multi-purpose room.
  - (5) Sewage treatment shall be provided for the elder care/dependent care unit in accordance with the county subsurface sewage treatment system ordinance [chapter 6, article V].
  - (6) Off-street parking. In addition to the parking spaces required for the principal single family dwelling on the lot, one off-street parking space shall be provided for the elder care/dependent care unit.
  - (7) Driveway. An elder care/dependent care unit and its supporting parking area shall be served by the same driveway and access that serves the principal single-family dwelling.
  - (8) Detached elder care/dependent care unit setbacks. In addition to meeting principal building setbacks, the detached elder care/dependent care unit shall be located in the side or rear yard of the principal single-family dwelling and be separated by at least ten feet from the principal single-family dwelling, but not more than 150 feet.
  - (9) An elder care/dependent care unit shall not be subdivided nor otherwise segregated in ownership from the principal single-family dwelling.
  - (10) All kitchen appliances and/or plumbing equipment shall be removed within 90 days once the elder care/dependent care unit is no longer occupied by a family member or care giver(s).
  - (11) Other regulations. The elder care/dependent care unit shall comply with all other local and state regulations.
  - (12) Additional conditions may be imposed to ensure that the proposed use is compatible with the surrounding land uses.
- (d) *Termination/expiration.*
- (1) Termination. Any elder care/dependent care unit permit may be terminated if the use in question violates any of the standards of this chapter, or any conditions placed on the permit.
  - (2) Expiration. Any elder care/dependent care unit permit shall expire when the unit is no longer occupied by a family member or care giver(s).
  - (3) Removal. Attached or detached elder care/dependent care units must be removed within 90 days when the unit is no longer occupied by a family member or care giver(s).

(Ord. of 2-28-2012)

### **Sec. 24-325. Farm winery.**

This section addresses performance standards for the establishment and operation of farm wineries.

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- (a) *Production capacity.* The annual production capacity of a farm winery may not exceed 50,000 gallons as stated by Minn. Stats. § 340A.315.
- (b) *Uses.* The following uses may be permitted at a farm winery upon the granting of an interim use permit:
- (1) Aging, processing and storage of wine in bulk.
  - (2) Bottling, storage, and wholesaling of bottled wine.
  - (3) Crushing of grapes inside and/or outside within a structure.
  - (4) Display, but not the sale of art and crafts.
  - (5) Indoor/outdoor live music.
  - (6) On-site marketing of wine, including up to three special events of one to three days in duration during a calendar year which are intended to draw customers to the site for the tasting and purchase of wine. Such an event can reasonably anticipate the assembly of 1,000 visitors or more.
  - (7) Office use associated with the winery.
  - (8) The preparation of non-wine related food items onsite that require the heating assistance of a range, grill, or microwave may be permitted. These items shall consist of sandwiches, soups, and salads.
  - (9) Tours.
  - (10) Retail sale of glassware, wine literature and accessories, apparel, cheese and cheese spreads, other wine related food items (fruit, olives, etc.), and items directly related to wine.
  - (11) Retail sale (on-sale or off-sale) of wine fermented and bottled at the winery.
  - (12) Retail sale (on-sale only) of beer.
- (c) *Prohibited uses.* The following uses may not be allowed at a farm winery:
- (1) Cultural and social events unrelated to the operation of the winery including, but not limited to, wedding receptions, charitable fundraising events, and classes not related to wine.
  - (2) Off-sale retail sale of beer.
  - (3) Retail sale of items that are not permitted under the Minnesota Farm Winery License.
  - (4) The use of a deep fat fryer.
- (d) *[Applicable to farm wineries.]* The following standards shall apply to all farm wineries:
- (1) All other applicable licenses and permits shall be obtained from the appropriate agency and maintained in association with the operation of the winery.
  - (2) Any proposed changes to a winery to add or modify food or beverage sales, or to amend other services and activities offered, shall be brought back before the planning commission and county board for review.
  - (3) Outdoor live music shall be permitted during the hours of 12:00 p.m. and 9:00 p.m. on Friday, Saturday, and Sunday.
  - (4) The farm winery must comply with the provisions in the Blue Earth County Code of Ordinances section 24-310, parking and loading regulations.

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- (5) The farm winery shall be located on a minimum parcel size of ten acres of which at least two and one-half acres shall be dedicated to the growing of fruit(s) used in the making of wine at the winery.
  - (6) The retail sale of beer may only occur during normal operating hours of business and must be incidental to the primary operation of the winery.
  - (7) The total gross receipts of the sale of non-wine related items including food, beverages other than wine, glassware, wine literature and accessories, shall not exceed 35 percent of the total retail sales of the winery.
  - (8) The SSTS and all associated components shall be maintained in accordance with MPCA SSTS standards. The SSTS of a winery shall be separate from residential use associated with the property.

(Ord. of 2-28-2012; Ord. of 7-24-2012; Ord. of 1-19-2021(1), Att. A)

### **Sec. 24-326. Home occupations.**

The purpose of this classification is to prevent competition with business districts, protect the natural resources of the county, and provide a means through the establishment of specific standards and procedures by which home occupations can be conducted without jeopardizing the health, safety and general welfare of surrounding uses. The establishment and continuance of home occupations as accessory uses shall be conditionally permitted if the requirements and conditions of this section are satisfied.

- (a) *Level I home occupations.* Level I home occupations shall comply with the following:
  - (1) Level I home occupations shall be conducted entirely within the dwelling, carried on by the inhabitants with no more than three outside employees.
  - (2) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential character of such dwelling.
  - (3) The level I home occupations shall not exceed 1,000 square feet of floor space.
  - (4) Accessory buildings and/or attached garages can be used as part of the home occupation as long as the structure is not specifically dedicated for the occupation and is incidental and secondary to the use of the principal residential structure on the property.
  - (5) There shall be no exterior display storage of equipment and materials.
  - (6) Allowable signage shall be limited to one sign, one and one-half square feet, non-illuminated, and attached to the dwelling.
  - (7) There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
  - (8) The operation of the home occupation shall begin no earlier than 8:00 a.m. and end no later than 5:00 p.m. Additional hours shall be reviewed by the planning commission and approved by the county board of commissioners.
  - (9) A level I home occupation shall not include the repair of internal combustion engines (other than small engine repair), body shops, machine shops, welding, ammunition, manufacturing, or any other objectionable uses as determined by the planning agency. Machine shops are defined as places where raw metal is fabricated, using machines that require more than 110 volts.
  - (10) All vehicles associated with a level I home occupation shall be parked off-street and upon the lot on which the home occupation is operated.

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- (b) *Level II home occupation.* Level II home occupations shall comply with the following:
- (1) All level II home occupations shall be conducted entirely within the dwelling or accessory building and shall be carried on by the inhabitants thereof. Six employees are allowed other than the inhabitants.
  - (2) Such use shall be clearly incidental and secondary to the use of the property for residential purposes.
  - (3) The level II home occupation shall not exceed 10,000 square feet.
  - (4) Junkyards and scrapyards are prohibited.
  - (5) Allowable signage shall be limited to a 32 square-foot sign, nonilluminated, and located on the property.
  - (6) There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
  - (7) The operation of the home occupation shall begin no earlier than 8:00 a.m. and end no later than 5:00 p.m. Additional hours shall be reviewed by the planning commission and approved by the county board of commissioners.
  - (8) Materials and equipment shall be stored in an enclosed building or screened area. Outdoor storage areas exposed to view from any street or neighboring property shall be screened by a six-foot tall, sight-obscuring fence, wall, landscape berm, or vegetation planting strip. When vegetation is used for screening, the vegetation must be maintained to properly screen the storage area.
  - (9) All vehicles associated with a level II home occupation shall be parked off-street and upon the lot on which the home occupation is operated.
- (c) *Waste disposal.* All home occupations not serviced by an approved community water and sewage system must comply with county, state and federal waste disposal requirements.
- (d) *No on-site disposal of solid waste will be permitted.* There shall be no burning or burial of waste, neither from the business nor from the residence. All solid waste at the site must be disposed through self-hauling to a permitted solid waste management facility, or by a solid waste hauler licensed with the county.
- (e) *Nonconforming home occupations.* All nonconforming home occupations legally existing prior to June 8, 1996, shall be allowed to continue, but shall not be allowed to expand, rebuild, relocate, be replaced or altered, without being brought into compliance with all the requirements of this section.
- (f) *Home occupation application requirements.* Any person proposing a home occupation shall make a written land use development application to the county. Application for such permit shall not be complete unless it contains the following:
- (1) A site plan showing the location of existing wells, sewage treatment systems, buildings, driveways, bluffs, lakes, rivers, streams, floodplain boundaries, and wetlands.
  - (2) A site plan showing the proposed location of all improvements including but not limited to buildings, storage areas, bathroom facilities, floor drains, solid waste collection facilities, lighting, parking areas, wells, sewage treatment facilities, and stormwater storage areas when applicable.
  - (3) Written description of the proposed home occupation including proposed hours of operation, number of employees, types of services offered, expected daily traffic, and proposed operating plan for the home occupation.

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- (4) Plans for sanitary sewage disposal, water supply systems, lighting, landscaping, screening and collection of garbage and refuse.
  - (5) Building plans or floor plans for the proposed home occupation.
  - (6) Other site-specific information may be required or requested by the county.
  - (7) Application fees.

(Ord. of 2-28-2012; Ord. of 5-25-2021(1), Att. A)

Cross reference(s)—Businesses, Ch. 4.

### **Sec. 24-327. Indoor and outdoor firing ranges.**

This section addresses performance standards for target or testing ranges at which firearms are discharged. Indoor ranges are listed as interim uses in the HB district and LI district. Outdoor ranges are listed as an interim use in the A district.

- (a) *Indoor standards.* The use of property for an indoor firing range shall conform to the following standards:
  - (1) The firing range shall not be located on any lot which is adjacent to a residential district.
  - (2) The use, occupancy and construction of the building shall be of materials that will contain all fired rounds within the confines of the building.
  - (3) The use shall conform with the applicable Minnesota Pollution Control Agency, Environmental Protection Agency and OSHA standards for indoor ventilation, emissions into the atmosphere, indoor sound levels, lead containment and outside noise standards.
  - (4) If retail sale and repair of weapons and/or ammunition is conducted on the premises, the management shall comply with all licensing and operations requirements of the Federal Bureau of Alcohol, Tobacco, and Firearms.
  - (5) The design and construction of the firing range shall totally confine all fired projectiles within the building in a controlled manner. The design and construction of the firing range shall be certified by a professional engineer registered in the state. The certified plans shall include the specifications and construction of the bullet traps, ceilings, exterior and interior walls, and floors. The certified plans shall state what type and caliber of ammunition the range is designed to totally confine.
  - (6) No ammunition shall be used in the range that exceeds the certified design and construction specifications of the firing range.
  - (7) A written log of range users shall be maintained by the range operator. The log shall include the name and address of the range user, and the time and date the user was in the range. The name and address of the range user shall be verified by photo identification. The log shall be subject to review by the county sheriff or designee.
  - (8) An alarm system, cut wire protected, shall be supplied to provide security for the general premises.
  - (9) Firearms which are stored on the premises shall be stored in a vault when the range is closed for business. An alarm system, independent of the general alarm system and cut wire protected, shall be supplied for the firearm vault.
  - (10) Ammunition shall not be stored in the firearm vault.

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- (11) On-site supervision shall be supplied at all times by an adult with credentials as a qualified range master.
  - (12) The transport of firearms on the premises shall conform to state law.
  - (13) Minors shall not be allowed in the range unless accompanied by an adult at all times.
  - (14) The operation of the range shall be limited to the hours of 7:00 a.m. to 10:00 p.m.
  - (15) The board of commissioners reserves the right to review or modify the performance standards for the range.
- (b) *Outdoor standards.* The use of the property for an outdoor firing range shall conform to the following:
- (1) No retail sales or repair of firearms shall be permitted as an accessory use to an outdoor range.
  - (2) Outdoor ranges shall be setback a minimum of 500 feet from adjoining properties, and a minimum of 1,500 feet from residential or agricultural buildings, unless noise reduction techniques are used.
  - (3) Outdoor firing ranges shall not be sited within one and one-half miles of residences located in the direct line of fire, unless the range is below ground or shooting lanes are confined by approved means, such as concrete culverts.
  - (4) Outdoor ranges shall not be located within 500 feet of an airstrip or runway. No range shall be sited which places any portion of an airstrip within one and one-half miles if the portion is in the direct line of fire, unless the range is below ground or shooting lanes are confined by approved means, such as concrete culverts.
  - (5) The range shall be designed to provide protection from accidental or stray ammunition discharge for surrounding properties and to minimize noise.
  - (6) Only firearms shall be discharged at the range. No cannons, artillery or rockets shall be discharged unless blanks are being fired.
  - (7) Access shall be controlled by a lockable gate.
  - (8) Signage identifying the range shall be located at intervals of no less than 400 feet around the perimeter of the range.

(Ord. of 2-28-2012; Ord. of 1-19-2021(1), Att. A)

### **Sec. 24-328. Kennels.**

This section addresses performance standards for the establishment and operation of a kennel as described by this chapter.

- (a) The use shall comply with all applicable county, state, and federal regulations.
- (b) The structures used for animal confinement requires a minimum 100-foot setback from any property line and 500 feet from any residential dwelling other than the applicant's dwelling.
- (c) Onsite facilities shall be designed to accommodate all waste generated from kennels including housing and clean up.
- (d) Each large adult animal shall be provided with a separate fenced run of at least 36 square feet that shall be located at least 100 feet from any property line.
- (e) If a kennel facility is designed to accommodate boarding, it shall include adequate heating, cooling, ventilation, and lighting.

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- (f) All outdoor kennel facilities shall provide adequate shelter from the elements including sunlight, rain, snow, and hot or cold weather.
  - (g) Kennel facilities shall be adequately drained and maintained in a healthful manner.
  - (h) Signs shall meet the requirements of section 24-311.

(Ord. of 2-28-2012)

### **Sec. 24-329. Mineral extraction, associated mining and processing activities.**

It is declared to be the policy of the county to provide for the reclamation of land disturbed by mining in order to encourage productive use of such land including, but not limited to, the planting of forests; the seeding of grasses and legumes for grazing purposes; the planting of crops for harvest; the enhancement of wildlife and aquatic resources; the establishment of recreational, residential and industrial sites; and for the conservation, development, management and appropriate use of all the natural resources of such areas for compatible multiple purposes; to aid in maintaining or improving the tax base; and protecting the health, safety and general welfare of the people, as well as the natural beauty and aesthetic values, in the affected areas of the county.

- (a) *Required.* No person shall hereafter engage in the mining and processing of sand, gravel, limestone or other minerals or the recycling of bituminous and/or concrete products or the operation of hot mix and/or concrete batching plants on any land within the county, located outside the boundaries of any city, village or incorporated town without first obtaining from the county an interim use permit as regulated by subsection 24-47(e).
- (b) *Jurisdiction.* Any excavation, quarrying or removal of surface material for the purpose of extracting minerals, stone, gravel, sand, soil, clay or other material as the function of such excavation shall be conducted subject to the requirements of this article. Excavations for purposes of residential, commercial or industrial development or land alterations for agricultural purposes shall be exempt from the provisions of this article.
- (c) *Application.* Any person desiring to commence or expand the mining and processing of sand, gravel, limestone or other minerals or the recycling of bituminous and/or concrete products or the operation of hot mix and/or concrete batching plants shall make a written land use development application for an interim use permit to the planning agency. Application for such permit shall be made upon a form furnished by the planning agency. The form shall contain the following items:
  - (1) The applicant's true name and address, and a statement that the applicant has the right to ownership or lease to mine and to reclaim that land described.
  - (2) Description of the tract of land and the number of acres to be mined by the applicant. The description shall include the section, township, range and county in which the land is located with sufficient clarity so that it may be located and distinguished from other lands.
  - (3) A business/operations plan. Said plan shall include a listing of all mining, recycling and processing activities, hours of operation, estimated daily truck traffic, and dust control.
  - (4) A statement containing an estimate of the life expectancy of the proposed operation. The estimate shall include a starting date and, if within five years, the completion date.
  - (5) A detailed map of the land drawn at a scale of one inch equals 100 feet, or larger, showing at least the following specifics:
    - a. Existing topographical features at ten-foot contour intervals.
    - b. Location of watercourses, drainage systems and impounded waters.



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- c. Outline of the maximum area to be excavated.
  - d. Vertical profile of area to be excavated indicating overburden and other geological layers to the extent known.
  - e. The proposed location of any buildings, equipment storage areas, operation areas, stockpiling areas and any other uses incorporated in the excavation process.
  - f. Location and names of existing roads, trails, railroads, buildings, utility rights-of-way, vegetation, and other cultural features within and immediately adjacent to the proposed excavation area.
- (d) *Reclamation bond requirements.* A bond, meeting the following requirements shall be filed with the zoning administrator in such form as the board of commissioners prescribe, payable to the county. Such bond amount shall be set by the board of commissioners by resolution. The bond shall guarantee that either upon termination of the permit or of the operations, the ground surface of the land used shall be restored in conformity with the reclamation plan approved by the county board. When and if the portions of the bonded property are completely rehabilitated in accord with the reclamation plan, and such restoration is certified by the zoning administrator, the performance bond protecting the restored acreage shall be returned.
- (e) *Mining operation standards.*
- (1) *General requirements.* Each person to whom a mining operation permit is issued may engage in mining upon lands described in the permit, subject to the following regulations:
- a. The mining operations shall be conducted in compliance with the laws of the state and the federal government, especially as related to safety standards, and ordinances and resolutions of the county, as amended, and in compliance with and furtherance of the approved reclamation plan for the affected land.
  - b. Clearing of the mining site shall conform to the development and reclamation plan whenever possible. Existing trees and shrubs shall remain in their natural state and not prematurely stripped.
  - c. Adequate planting, fencing or berming shall be provided along all public roads adjacent to the property involved, sufficient to screen the operation from view.
  - d. Ingress and egress access points from or onto any road or highway shall be clearly signed, and only those signed access points shall be utilized. All access points must be approved by the highway agency having jurisdiction, and shall preferably be located along a secondary road. All access points shall be located so as to avoid the routing of vehicles to and from the mining operation over streets that primarily serve abutting residential development. Precautions must be taken to minimize the deposit of dirt and mined material from trucks onto the public roads.
  - e. Trucks used in hauling materials from the site of excavation shall be loaded in such manner as to minimize spillage onto public highways. Any spillage resulting from overloading or from truck tires shall be removed daily or as needed.
  - f. The amount of overburden to be removed shall not be in excess of that required to undertake operations in an economically feasible manner. Less than ten acres shall be considered economically feasible unless different classes of material are available for extraction and approved by the county board of commissioners. Development toward the final plan shall be carried on as excavation progresses. Where ground cover or other planting is indicated on approved plan, such planting shall be made in areas where excavation is completed and land is not being used for material storage.

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- g. Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented for the depth of the required roadside setback.
  - h. When explosives are used, the operator shall take all necessary precautions not to endanger life and damage or destroy property. The method of storing and handling explosives shall conform with all laws and regulations relating thereto.
  - i. Proposed graded or backfilled areas or banks as conforming to the approved reclamation plan shall be covered with sufficient topsoil, based on the availability of existing topsoil, to provide for re-vegetation. When backsloping is proposed on the reclamation plan, the rate of slope shall not be less than three feet horizontal to one foot vertical. Proposed banks shall be covered with topsoil and seeded, except where such banks provide a beach area to a proposed recreational lake as indicated on the approved reclamation plan.
  - j. Upon replacement of the topsoil, trees, shrubs, legumes, grasses or other ground cover shall be planted upon the area in order to avoid erosion, in accordance with approved reclamation plan.
  - k. Upon completion of excavation, all buildings, hot-mix or concrete plants, stockpiled materials and equipment shall be removed within six months, unless such buildings, hot-mix or concrete plants and equipment will be used in the reclamation process.
  - l. Operating procedures will be utilized to control dust and noise so as not to be in conflict with adjoining property.
- (2) *Setback requirements.* Mining operations shall not be conducted closer than:
- a. One hundred feet to the boundary of any district where such operations are not permitted.
  - b. Not closer than 200 feet to the boundary of an adjoining property residentially zoned.
  - c. Not closer than 50 feet to the boundary of an adjoining property line, unless the written consent of the owner of such adjoining property is first secured.
  - d. Excavating or stockpiling shall not be conducted closer than 100 feet to the right-of-way line of any existing or platted street, road, or highway, where such excavation may create a traffic or line of site problem.
  - e. Not closer than 100 feet from the ordinary high water level of any public water.
  - f. Dust and noise producing, processing or loading shall not be conducted closer than 300 feet to any residential structures existing prior to submittal of the initial application.
- (3) *Hours of operations.* A one-hour quiet-time warm up period may commence no earlier than 6:00 a.m. Monday through Saturday. All other mining activities may commence no earlier than 7:00 a.m. Monday through Saturday. All mining activities shall cease no later than 9:00 p.m. Monday through Friday or one half hour after sunset; whichever is the earlier of the two. Saturday mining activities shall cease no later than 12:00 p.m. (noon).
- (f) *Reclamation plan.* A reclamation plan shall be prepared for the planned after-use of affected areas and the nature and extent of reclamation. A detailed reclamation map drawn at a scale of one inch equals 100 feet or larger shall be provided designating which parts of the land shall be reclaimed for forest, pasture, crop, homesite, recreational, industrial, or other uses including food, shelter and ground cover for wildlife. The reclamation plan and map shall contain:
- (1) Proposed contours after any proposed filling.
  - (2) Depth of restored top soil if restoration is proposed.

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- (3) Type of fill, if fill is proposed.
  - (4) Type of planting or restoration. Planting shall be in accordance with the desires of the property owner. If natural re-vegetation is proposed, it shall be so stated.
  - (5) Estimated progress and completion dates. Reclamation activities shall progress on a phased basis, that is, for every ten acres of additional mining operations, the previous, exhausted ten acres must be reclaimed unless otherwise specified.
  - (6) If the operator finds the characteristics of the mining area to be different than what was previously determined, changes may be made in the original reclamation plan by mutual consent of the operator and the county planning agency. Such change shall preserve, as substantially as possible, the original reclamation plan, and shall also provide for the previously unknown variables.
  - (7) A written statement containing an explanation of the character of the site to be mined and of the character of the surrounding territory; an explanation of the reclamation plan; and an explanation of the schedule of reclamation which may include phase reclamation. If a reclamation schedule cannot feasibly be prepared, it shall be so stated and written reasons submitted.
  - (8) Any mining operation legally commenced prior to the enactment of this chapter that does not have an approved reclamation plan shall submit a reclamation plan to the planning agency for review and approval.
  - (9) The zoning administrator shall determine whether the requirements for filing a reclamation plan have been met. The planning commission shall review all reclamation plans and forward them with a recommendation to the board of commissioners.

(Ord. of 2-28-2012; Ord. of 1-19-2021(1), Att. A)

### **Sec. 24-330. Organized group camp.**

This section addresses the performance standards for the establishment and operation of organized group camps.

- (a) Information shall be submitted to the planning agency in the form of a business/operations plan. Said plan shall include information regarding the services offered, types of facilities, sanitary sewer and waste disposal facilities, hours of operation and other issues relevant to the proposed use.
- (b) A transportation management plan shall be submitted to address off-street parking, the mitigation of overflow parking, traffic circulation, traffic control and the impact of the facility on surrounding roadways per section 24-310.
- (c) All buildings and structures must meet the setback requirements of this chapter.
- (d) A grading and drainage plan shall be submitted.
- (e) One caretaker residence may be allowed. The residence is to be used strictly for the caretaker and his/her family members. The caretaker residence shall be accessed via the access road to the recreation facility. If the residential development right of the quarter quarter has been developed, the applicant must follow the transfer development rules of this code.
- (f) Signs shall meet the requirements of section 24-311.

(Ord. of 2-28-2012)

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### **Sec. 24-331. Reception/banquet/meeting halls/retreat centers or facilities.**

This section addresses the performance standards for the establishment and operation of reception/banquet/meeting halls/retreat centers or facilities.

- (a) Information shall be submitted to the planning agency in the form of a business/operations plan. Said plan shall include information regarding the services offered, types of facilities, sanitary sewer and waste disposal facilities, hours of operation and other issues relevant to the proposed use.
- (b) Total maximum floor space area shall be no larger than 10,000 square feet.
- (c) Retail Sales areas may include up to ten percent of the floor space of the building, but may not exceed 1,000 square feet.
- (d) Meal preparation areas must be licensed and approved by the Minnesota Department of Health.
- (e) Bars, including lounges, nightclubs, on-sale liquor establishments, restaurants, cafés or taverns are prohibited.
- (f) Lodging, camping and overnight accommodations are prohibited.
- (g) The offering of food and alcohol shall only be provided by offsite catering services.
- (h) Discharging of firearms is prohibited.
- (i) Allowable signage shall be limited to an illuminated 32 square foot sign located on the property.
- (j) There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
- (k) Sites not serviced by an approved community water and sewage system must comply with county, state and federal waste disposal requirements.
- (l) A transportation management plan shall be submitted to address off-street parking, the mitigation of overflow parking, traffic circulation, traffic control and the impact of the facility on surrounding roadways per section 24-310.
- (m) A review by the planning agency of the interim use permit requirements will be mandatory within 30 days of any ownership change of property or lease agreement.
- (n) Any proposed change in operation or services offered shall first receive approval of an updated interim use permit.

(Ord. of 2-28-2012; Ord. of 1-19-2021(1), Att. A)

### **Sec. 24-332. Seasonal produce sales stands.**

This section addresses performance standards for the establishment and operation of seasonal produce sales stands as defined by this chapter.

Seasonal produce sales stands shall comply with the following standards:

- (a) Seasonal produce stands shall be an accessory use to a principle agricultural use.
- (b) Operation of produce stands shall be limited to the growing season in Minnesota.
- (c) No sale of product shall take place in the public right-of-way of any federal, state, county or township roadway unless approved by the road authority.

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- (d) Off-street parking shall be provided outside of any road right-of-way.
  - (e) Any temporary structure placed on the property for seasonal produce sales shall be removed at the end of the selling season. The size of the temporary structure shall not exceed 120 square feet.
  - (f) All structures, including temporary structures, shall meet the minimum setback requirements of the district in which it is located.
  - (g) Signs shall meet the requirements of section 24-311.

(Ord. of 2-28-2012)

### **Sec. 24-333. Wind energy conversion systems (WECS).**

This section addresses performance standards for siting, design, and installation of WECS. WECS shall conform with the following standards:

- (a) *Setback from rights-of-way.* All WECS must be setback from road rights-of-way a distance that is equal to or greater than 1.1 times the height of the WECS as measured from the ground level to the top of the tower, the top of the rotor, or blade whichever is higher.
  - (1) The setback may be reduced to a distance agreed upon by the county, if the applicant furnishes a registered engineers certification that the WECS is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WECS.
- (b) *Setback from property lines.* All WECS must be setback from property lines a distance that is equal to or greater than the height of the WECS as measured from the ground level to the top of the tower, the top of the rotor, or blade whichever is higher.
  - (1) The setback may be reduced to a distance agreed upon by the county, if the applicant furnishes a registered engineers certification that the WECS is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WECS; or
  - (2) The setback may be reduced to a distance agreed upon by the county if there are no structures within the fall zone and if an easement is obtained from the adjacent landowner or land owners. The easement must describe all lands which could be impacted if the tower would fall and must be in effect as long as the WECS is in place.
- (c) *Mutual setback for dwellings and commercial WECS.* The setback requirements for a dwelling and a commercial WECS are mutual. The distance between a commercial WECS and a dwelling as measured from the nearest wall of a dwelling to the closest part of the WECS must be a minimum of 750 feet.
- (d) *Prohibited areas.* No WECS may be located within a wetland or a shoreland as defined in Chapter 14 of the Code.
- (e) *Non-commercial WECS height.* A non-commercial WECS must not exceed 200 feet in height as measured from the ground level to the top of the tower, the top of the rotor, or top of the blade whichever is higher.
- (f) *Noise.* The WECS must be operated and maintained so that it complies with the noise pollution standards of the Minnesota Pollution Control Agency.
- (g) *Tower access.* All WECS must be guarded against unauthorized climbing. All WECS must either have the climbing apparatus located not closer than 12 feet to the ground or be un-climbable by design for the first 12 feet.
- (h) *Lightning protection.* The WECS must be designed and installed to withstand natural lightning strikes.

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- (i) *Electrical rules and regulations.* The WECS electrical equipment and connections must adhere to all state, federal and power company rules, regulations and standards.
  - (j) *Safety design.* The safety design of all WECS must be certified by the manufacturer's engineer or a certified Minnesota professional engineer.
  - (k) *Braking system.* All WECS must have a manual and automatic braking system device capable of halting operation in high winds as per the manufacturer's design.
  - (l) *Aviation rules and regulations.* The proposed WECS must be in compliance with all Federal Aviation Administration regulations and shall comply with the notification requirements of the FAA.
  - (m) *Clearance.* The WECS blade must be a minimum of 12 feet above ground level.
  - (n) *Construction requirements.* All WECS shall be designed and constructed in accordance with all applicable state and federal regulations.
  - (o) *Signs.* Each WECS must have a sign or signs posted at the base of the tower that specifies the following information: warning high voltage, manufacturers name, emergency shutdown procedures, and emergency phone numbers. No permitted sign may exceed three square feet in area. Signs other than warning signs, equipment labels, emergency information or owner identification are prohibited on a WECS.
  - (p) *Lighting.* A WECS may not be illuminated unless required by a state or federal agency.
  - (q) *Interference.* No WECS shall be permitted that causes any interference with commercial or private use and enjoyment of other legally operating telecommunication devices including but not limited to radios televisions, telephones, personal communication devices and other electronic equipment and devices.
  - (r) *Abandonment.* All commercial WECS that do not generate energy during a period of 12 consecutive months for reasons other than lack of demand for energy produced, repair, or modernization shall be considered abandoned and shall be removed. The applicant must furnish a copy of the relevant portion of an executed lease, which identifies the applicant's obligation to remove abandoned or unused WECS, concrete footings, anchors, and supporting equipment to a depth of four feet below ground surface prior to the issuance of a conditional use permit to erect a WECS. The county shall require financial assurances or bonds in an amount sufficient to cover costs of removal of WECS, buildings, concrete footings, anchors, and supporting equipment to a depth of four feet below ground surface. An engineer's cost estimate which documents removal costs of the WECS, concrete footings, anchors, and supporting equipment to a depth of four feet below ground surface shall be submitted with the conditional use permit application. Such engineer's cost estimate is to assist the board of commissioners in determining the amount of financial assurance necessary to cover removal costs of such WECS, buildings, concrete footings, anchors, and supporting equipment. If any WECS, buildings, concrete footings, anchors, and supporting equipment have not been removed within 90 days of written notice by the county after abandonment, the county shall have the right to remove the WECS, buildings, concrete footings, anchors, and supporting equipment, and assess the property.
  - (s) *Compliance.* In order to ensure compliance with the performance standards set forth in this section, the board of commissioners may require the owner or operator of any conditional use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by a certified testing organization selected and paid for by the applicant and approved by the county.

(Ord. of 4-22-2003)

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## Sec. 24-334. Solar energy system standards.

This section is established to protect and promote health, safety, general welfare and order within the county through uniform standards, regulations, and procedures governing the type, size, structure, location, height, erection and use of solar energy systems. All solar energy systems shall conform to the following standards:

(a) *General requirements.*

- (1) Systems shall be in compliance with any applicable local, state and federal regulatory standards, including, but not limited to, the State of Minnesota Uniform Building Code, as amended, and the Minnesota State Electric Code, as amended.
- (2) All elements of the system shall comply with all zoning district regulations including lot coverage and impervious surface limitations of the applicable zoning district.
- (3) Stormwater management shall be in compliance with the MPCA construction stormwater permit requirements and Blue Earth County requirements.
- (4) Systems shall meet the requirements for erosion and sediment control as per section 24-304.
- (5) Power and communication lines running between banks of solar collectors and to electric substations or interconnections with buildings shall be buried underground.
- (6) Systems or fencing shall not be used to display advertising. The manufacturer's information, equipment information, warning information, or indication of ownership shall be allowed on any equipment of the solar energy system or associated fencing provided they comply with section 24-311.
- (7) Systems shall be prohibited within any safety zones as designated in the Mankato Regional Airport Zoning Ordinance, as amended.
- (8) To minimize impact on wetlands, the standards contained in Minnesota Rules Chapter 8420 (Wetland Conservation) and the Wetland Classification Framework and Sequencing Policy in the Blue Earth County Land Use Plan and Water Management Plan shall be followed.
- (9) Systems shall be designed and operated to limit the misdirection of reflected solar radiation onto adjacent or nearby property, public roads, or other areas open to the public.

(b) *Performance standards.*

- (1) Ground-mounted and pole-mounted solar energy systems.
  - a. Ground-mounted and pole-mounted systems shall not exceed 20 feet in height at maximum design tilt.
  - b. The total collector surface of ground-mounted or pole-mounted systems shall not exceed 50 percent of the building footprint of the principal structure in the rural residence and rural townsite districts.
  - c. Permanent, perennial vegetation, excluding invasive plants and noxious weeds, shall be established and maintained to cover the entire site with the exception of the collector's foundation or mounting devices, access roads and accessory buildings.
- (2) Roof-mounted solar energy systems. No construction permit required except where otherwise noted.
  - a. Roof-mounted systems shall not exceed the maximum allowed height in any zoning district and shall not extend greater than four feet above the existing structure's roof height in the rural residence and rural townsite districts.

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- b. In addition to the structure setback, the collector surface and mounting devices for roof-mounted systems shall not extend beyond the exterior perimeter of the structure on which the system is mounted or built, except for when such an extension is designed as an awning. A construction permit is required for awnings 120 square feet or larger.
  - c. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges a minimum of two feet.
  - d. Exterior piping for roof-mounted solar hot water systems may extend beyond the perimeter of the structure on the side and rear yards.
  - e. Roof-mounted systems, excluding building-integrated systems, shall not cover more than 80 percent of the south-facing or flat roof upon which the collectors are mounted.
- (3) Wall-mounted solar energy systems. No construction permit required.
- a. Wall-mounted systems shall cover no more than 25 percent of any exterior wall facing the front yard in the rural residence and rural townsite districts.
- (4) Photovoltaic solar energy systems.
- a. For photovoltaic solar energy systems, the electrical disconnect switch shall be clearly identified and unobstructed.
  - b. A grid-intertie photovoltaic solar energy system shall not be installed until written documentation has been provided to the zoning administrator that the current utility company is aware that an interconnected customer-owned generator will be installed at that location. Documentation may consist of an interconnection agreement or a written explanation from the utility provider or contractor outlining why an interconnection agreement is not necessary. Off-grid systems are exempt from this requirement.
  - c. Photovoltaic solar energy system components must have an Underwriters Laboratory (UL) listing or other third-party certification provided by an American National Standards Institute accredited organization and solar hot water systems must have a Solar Rating & Certification Corporation (SRCC) rating.
- (c) *Requirements for large solar energy systems.* Large solar energy systems shall meet the following standards.
- (1) Pre-application meeting required. A pre-application meeting with county planning staff is required prior to application for a land development permit that requires a public hearing. The following items shall be reviewed and approved prior to the submittal of an application for a large solar energy system:
- a. Existing conditions site plan.
  - b. Proposed conditions site plan.
  - c. Written approval for road access from the applicable road authority (township, county, state).
  - d. Proposed grading plan.
  - e. Stormwater Pollution Prevention Plan.
  - f. National Pollutant Discharge Elimination System Construction Stormwater Permit.
  - g. Operation and maintenance plans for all permanent and temporary stormwater control measures, when applicable.



- h. Vegetation and seeding plan for all perennial vegetation.
  - i. Maintenance plan for all perennial vegetation.
  - j. Decommissioning plan.
  - k. Proof of a financial surety agreement to guarantee decommissioning, payable to the landowner.
  - l. A statement signed by the landowner acknowledging the County's ability to create a lien on the property and collect as a special assessment, any solid waste removal costs incurred by the County as a result of an inadequate financial surety.
- (2) The manufacturer's engineer or a State of Minnesota, licensed professional engineer shall certify in writing that the foundation and design of the solar energy system is within accepted professional standards, given local soil and climate conditions, within 60 days of completion of construction.
  - (3) All elements of the system shall be prohibited within shoreland as defined in section 14-4.
  - (4) Any system proposed within an area governed by an orderly annexation agreement shall have written approval from the municipality and township prior to the county accepting an application.
  - (5) Property, wetlands and waterways down gradient from a proposed system shall be protected from flooding and erosion due to increases in the volume, velocity and peak water flow rate of stormwater runoff.
  - (6) Any project proposed on a grade of eight percent or greater shall be carefully reviewed to ensure adequate measures have been taken to prevent erosion or sedimentation from impacting down gradient properties, wetlands or waterways.
  - (7) The conversion of existing wooded areas for the placement of systems is prohibited.
  - (8) All elements of the system shall be prohibited within all floodplain districts.
  - (9) Stormwater runoff shall not be directed into any public rights-of-way.
  - (10) Sites which require permanent stormwater management facilities or best management practices shall be designed in accordance with the MPCA NPDES construction stormwater permit and Blue Earth County stormwater standards. Plans for permanent stormwater management facilities or best management practices shall be approved by Blue Earth County prior to making application for a land development permit that requires a public hearing.
  - (11) All elements shall be prohibited in areas with moderate to high biological significance as identified in the Minnesota Department of Natural Resources Biological Survey.
  - (12) The parking of any equipment, delivery vehicles, or employee vehicles within any area of public rights-of-way during the construction or maintenance phases of the proposed project, shall be prohibited.
  - (13) Large solar energy systems shall meet or exceed the following setbacks:
    - a. The setback distance from the outermost edge of a solar array to the nearest wall or portion of a dwelling, including an attached garage is as follows:

| District where a Large Solar Energy System is Proposed | Setback |
|--|---------|
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| Agriculture, Conservation, Rural Residence, or Rural Townsite District        | 750 feet |
| Highway Business, General Business, Light Industry or Heavy Industry District | 200 feet |

The setback does not apply to a dwelling owned by the applicant.

- b. 500 feet from the outermost edge of a solar array to the nearest portion of a wildlife management area, waterfowl production area, aquatic management area, county park or state park.
  - c. 150 feet from the outermost edge of a solar array to the centerline of all public rights-of-way, for roads that are not divided highways.
  - d. 100 feet from the outermost edge of a solar array to the highway right-of-way, for all divided highways.
  - e. 75 feet from the outermost edge of all parts of the solar energy system including buildings or fences to the center of all sub-surface county drain tiles.
  - f. 75 feet from the outermost edge of all parts of the solar energy system including buildings or fences to the crown of all open county ditches
  - g. 50 feet from the outermost edge of a solar array to the side and rear property lines.
- (14) Density. New or expansion of existing large solar energy systems proposed within 2,500 feet of an existing or approved large solar energy system shall be reviewed by county staff for a determination of aggregate impact. Additional conditions may be added by the county to mitigate those impacts.
- (15) Screening. All newly proposed large solar energy systems or proposed modifications to existing large solar energy systems may be subject to conditions requiring the development of a landscape plan, and installation and maintenance of screening placed outside of the fenced perimeter and consisting of suitable native shrubbery and/or trees. When screening is required, the following standards shall apply.
- a. Screening shall meet the applicable accessory structure side and rear yard setback requirements for the given zoning district.
  - b. The landscape plan and landscape maintenance plan shall be designed by a Minnesota-licensed landscape architect or a Minnesota-certified arborist. The plans shall verify that the screening goal will be achieved by the end of third growing season for the project, given normal growing conditions.
  - c. Financial surety in an amount and form sufficient to guarantee that the screening goals will be achieved by the end of third growing season shall be provided prior to construction permit approval. The financial surety shall be in the form of a surety bond, cash bond, or an irrevocable letter of credit. The financial security must be in place prior to any site preparation work, site grading, or work starting on the solar energy system. The amount of financial security required will be calculated based on the work detailed in the plans and specifications. Any unspent amount of the financial security deposited with the county for faithful implementation of the plans and specifications and will be released after the completion and inspection of the establishment of the screening.

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- d. Screening shall be installed within 30 days of the completion of the fence installation. When requested in writing and deemed necessary, the zoning administrator may grant a one-time extension for the screening installation.
- (16) Fences. All fencing shall meet the accessory structure setback requirements for the applicable zoning district. The required setbacks may be increased if deemed necessary by the zoning administrator. Fences shall consist of open fencing such as agricultural fence, chain link, or barbed wire security fence. Other fencing plans shall be approved by the affected road authority. Fences shall not exceed six feet in height, except security fences, which shall not exceed eight feet in height, including barbed wire toppings.
- (17) Application for large solar energy systems. Any person proposing to construct or erect a large solar energy system shall make a written land use development application to the zoning administrator. Application for such permit shall be made upon a form furnished by the county and shall not be complete unless it contains the following:
- a. A site plan of existing conditions shall be prepared and submitted to the planning agency which shall contain:
- i. Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of the adjacent landowners and current use of those properties.
  - ii. Existing public and private roads, showing widths of roads, right-of-ways, and any associated easements.
  - iii. Location and size of any in-use wells and sewage treatment systems, and any abandoned wells, abandoned sewage treatment systems and dumpsites.
  - iv. Existing buildings and all impervious surfaces.
  - v. Topography at two-foot intervals and source of contour interval. A contour map of the surrounding properties may also be required.
  - vi. Existing vegetation (list type and percent of coverage; for example grassland, plowed field, wooded areas, etc.).
  - vii. Waterways, watercourses, lakes and public water wetlands.
  - viii. Delineated wetland boundaries, approved by Blue Earth County, when applicable.
  - ix. The base flood elevation (one-percent annual chance flood elevation) and regulatory flood protection elevation, if available.
  - x. Floodway, flood fringe, and/or general floodplain district boundary, if applicable.
  - xi. The toe and top of any bluffs, as defined by this chapter, within the project boundaries.
  - xii. Mapped soils according to the United States Department of Agriculture Soil Survey.
  - xiii. Surface water drainage patterns and flow directions.
  - xiv. Location of county tile drainage systems, county open ditches, and any associated easements.
  - xv. Location of sub-surface private tile drainage systems, if known.

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- b. A site plan of proposed conditions which shall contain:
    - i. Location, size, and spacing of solar arrays on the site.
    - ii. Location and spacing of all power poles associated with the proposed project.
    - iii. Location and size of all roadways including roadways used for access and maintenance of the site.
    - iv. Planned location of all electric lines connecting the solar energy system to the building, substation or other electric load.
    - v. New electrical equipment other than at the existing building or substation that is the connection point for the solar energy system.
    - vi. Proposed erosion and sediment control measures as required by section 24-304.
    - vii. Computer generated rendering (profile view) of the project that accurately depicts the proposed solar energy system in relation to any structures or roads within 1,000 feet of the outermost edge of a proposed solar array. Changes in surface water drainage patterns.
    - viii. Proposed permanent stormwater management facilities and best management practices, when required.
    - ix. Proposed location of all employee parking areas.
    - x. Proposed location of all staging areas.
    - xi. Proposed location of all temporary structures related to the construction of the project.
    - xii. Proposed location of any temporary refueling stations.
    - xiii. Delineated wetland boundaries, approved by Blue Earth County, when applicable
    - xiv. A table showing the total amount of impervious surface being added to the site, including, but not limited to: inverter pads, access roads, solar panels, etc.
  - c. The proposed installed capacity, in kilowatts, for the site.
  - d. Proposed type of mounting and racking systems, and manufacturer's specifications or engineering designs for the type of mounting and racking, including a description of the type of foundation needed for the proposed system, if applicable.
  - e. A description of the method of connecting the system to a building or substation.
  - f. A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.
  - g. An itemized decommissioning plan with cost estimates for each item shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar energy systems must occur within 180 days of either the end of the system's serviceable life, or the system's discontinued use. If a system does not generate energy for a period of 12 consecutive months, it is deemed to be a discontinued use. All items associated with a discontinued use shall be defined as solid waste, in accordance with Section 24-3 of the Blue Earth County Code of Ordinances. The board shall require the posting of a bond, letter of credit or the establishment of an escrow account in the name of the landowner, to

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ensure proper decommissioning. Any cost incurred by the county for the decommissioning of a discontinued system, as a result of an inadequate financial surety, shall be assessed back to the landowner under Subd. 14 of Minnesota Statute 375.18, as amended.

Decommissioning shall consist of the following:

- i. The removal of all structures and foundations.
  - ii. The removal of all power poles, cables/wiring and electrical devices associated with the project.
  - iii. The removal of all access roads and parking areas.
  - iv. The disposal of all power poles, cable/wiring, electrical devices, structures and/or foundations shall meet the provisions of the Blue Earth County Solid Waste Ordinance; or successor ordinance.
  - v. The permanent restoration of the site including the following:
    1. Site cleanup followed by general surface grading and, if necessary, restoration of surface drainage swales, ditches, and tile drains (if present).
    2. Any excavation and/or trenching caused by the removal of building or equipment foundations, rack supports, and underground electrical cables will be backfilled with the appropriate material and leveled to match the ground surface.
    3. The roads and parking areas will be removed completely, filled with suitable sub-grade material and leveled.
  - vi. Further restoration of soil and vegetation of the site as necessary to minimize erosion.
- h. Application fee as established by resolution of the county board of commissioners.
- (d) *Requirements for small solar energy systems.* Small solar energy systems shall meet the following standards.
- (1) Solar energy systems shall not be located nearer the front lot line than the principal building on the lot in the rural residence and rural townsite districts.
  - (2) Ground-mounted and pole-mounted solar energy systems shall be prohibited within the shoreland district.
  - (3) Application for small solar energy systems. Any person proposing to construct or erect a small solar energy system shall make a written land use development application to the zoning administrator. When a construction permit is required, an application for such permit shall be made upon a form furnished by the county and shall not be complete unless it contains the following:
    - a. A site plan of existing conditions shall be prepared and submitted to the planning agency which shall contain:
      1. Existing conditions as required by the site plan definition of section 24-3.
      2. Delineated wetland boundaries, approved by Blue Earth County, when applicable.
    - b. A site plan of proposed conditions which shall contain:

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1. Location and spacing of solar arrays.
  2. Location and size of any access roads, if applicable.
  3. Planned location of electric lines connecting the solar energy system to the principle use or building, substation or other electric load.
  4. New electrical equipment other than at the existing building or substation that is the connection point for the solar energy system.
  5. Proposed erosion and sediment control measures as required by section 24-304.

(Ord. of 2-16-2016; Ord. of 5-19-2020, Att. A; Ord. of 5-25-2021(2), Att. A)

### **Sec. 24-335. Self-service storage facilities (mini-storage).**

Self-service storage facilities (mini-storage) shall conform to the following standards:

- (1) A self-service storage facility in the A, agriculture district may not exceed a total of 10,000 square feet.
- (2) Storage units may only be used for storage. Storage units may not be used for retail sales, industrial uses, vehicle repair, offices, any commercial or service activity, human habitation, storing any living animal or organism, or storing dead animals or carcasses.
- (3) Storage of hazardous, flammable, or explosive materials is prohibited.
- (4) All materials and equipment shall be stored in an enclosed building.
- (5) Water service to storage units is prohibited other than for a fire suppression system.
- (6) Signage must comply with section 24-311, signs.
- (7) Stormwater management shall be in compliance with the MPCA construction stormwater permit requirements and Blue Earth County Requirements.
- (8) All accesses to public roads must be approved by the appropriate road authority.
- (9) An on-site manager is allowed only where adequate sanitary facilities are provided, either through use of a code compliant septic system or through connection to a municipal sanitary sewer system. Use of portable sanitary facilities does not fulfill this requirement.

(Ord. of 8-25-2020(2))

### **Sec. 24-336. Transfer of residential development rights (TDR).**

The purpose of this section is to ensure the purpose of the agriculture district, conservation district, and the goals of the land use plan are met when transferring residential development rights from an undeveloped quarter of a quarter section by creating performance standards and an administrative approval process.

- (a) *Transfer of development rights application requirements.* Any person proposing to transfer a development right shall make a written land use development application to the county. Application for such approval shall not be complete unless it contains the following:
  - (1) Signed county application form.
  - (2) A notarized form(s) from all owners from a quarter of a quarter section authorizing the development right to be transferred.

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- (3) Proposed site plan for the dwelling that will result from said transfer of development right.
  - (4) Required application fees.
  - (5) Other site-specific information may be required or requested by the county.
- (b) *Performance standards.*
- (1) Any person proposing the transfer of a development right shall have a pre-application meeting with the Blue Earth County Planning Agency. The applicant shall provide a map showing the sending quarter of a quarter section and receiving quarter of a quarter section and the location of the intended development. If the proposal meets the requirements of the ordinance, notarized transfer agreements from the owners of property within the sending quarter of a quarter section shall be obtained by the applicant. The applicant shall submit the application fee and other applicable information requested by the planning agency.
  - (2) The sending quarter of a quarter section and receiving quarter of a quarter section of the residential development right shall share a common boundary or corner point. Transferring a development right from a quarter of a quarter section to one that does not share a common border or corner through direct transfer or by conveyance through one that does share a common border or corner shall be prohibited.
  - (3) The sending quarter of a quarter section and receiving quarter of a quarter section shall consist of a suitable buildable area capable of accommodating all requirements of the Blue Earth County Code of Ordinances for the construction of a single-family dwelling.
  - (4) Except as allowed in sections 24-114 and 24-139 which address lots of record, the transfer shall not allow the establishment of more than four dwellings in a quarter of a quarter section.
  - (5) All owners of parcels located within the sending quarter of a quarter section shall acknowledge relinquishment of the residential development right of the sending quarter of a quarter section using a form furnished by the county.
  - (6) A development right can be transferred to a quarter of a quarter section from which a development right has previously been legally transferred provided the transfer meets the requirements of this section.
  - (7) Outstanding violations on any properties within the sending quarter of a quarter section or on the parcel receiving the intended development right shall be brought into full compliance with the ordinance prior to receiving approval of the transfer by the county planning agency.
  - (8) The Blue Earth County Planning Agency shall record with the county recorder development rights transfer agreement forms from all parcels within the sending and receiving quarter of a quarter sections. The recordation shall include the decision notice of the approved transfer.
- (c) *Issuance.* The planning agency shall issue a decision notice approving the transfer of development right only after determining that the land use development application is complete, the lot is buildable and that the plan complies with all provisions of this chapter.

(Ord. of 7-27-2021(1), Att. A)

### **Sec. 24-337. Short-term rental units.**

This section is established to protect and promote health, safety, general welfare and order within the county through uniform standards, regulations, and procedures governing the short-term rental units. The use and operation of private vacation rental homes, referred to as short-term rental units, and to mitigate possible adverse impacts to surrounding properties, maintain water and environmental quality, ensure on-site parking is sufficient

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to provide parking for patrons and visitors, and the general safety of occupants of short-term rental units, the following standards shall be conformed to:

- (a) *Application requirements.* Any person proposing to operate a short-term rental unit shall make application to the planning agency for an interim use permit. The application for said permit shall contain the following:
  - (1) A site plan which shows the location of the following:
    - a. Property lines.
    - b. The dwelling unit proposed for use as a short-term rental unit.
    - c. Accessory structures.
    - d. Square footage of parking areas and driveway(s).
    - e. Shoreland recreational facilities (i.e. gazebos, boat house, and patios).
    - f. Storage of outdoor garbage and recycling storage containers.
    - g. All wells and septic systems facilities and secondary septic system location, or water and wastewater facilities serving the property.
    - h. Docks and pathways to a lake or river when applicable.
    - i. Fire pit for recreational fires.
    - j. Other site-specific considerations identified by the planning agency.
  - (2) Floor plans of the structure, including the number of bedrooms with dimensions.
  - (3) All other information required for an interim use permit, including, but not limited to:
    - a. Required fee.
    - b. A building inspection and certificate of occupancy issued by a Minnesota Certified Building Official.
    - c. A business plan that includes, but not limited to, quiet hours, maximum occupancy, parking, pet policy, refuse disposal, other property rules, the duration of available rental dates, the length of time the unit is available for rent for tenants of the unit, and any licenses required by other jurisdictions or agencies, including the Minnesota Department of Health.
    - d. Subsurface sewage treatment system (SSTS) commercial operating permit, if appropriate.
    - e. Proof of liability insurance.
- (b) *Performance standards.*
  - (1) The maximum occupancy at any given time shall be in compliance with the capacity of the subsurface sewage treatment system (SSTS) serving the unit. If the unit is served by a municipal or a sewer district system, the occupancy will be limited to the maximum occupancy identified in the applicant's business plan or the occupancy identified by a lodging license from the Minnesota Department of Health, whichever is lower.
  - (2) There may be a maximum of one rental unit per lot or parcel.
  - (3) The rental property manager shall maintain a list of all current occupants of the unit. The list shall be made available to county staff and/or law enforcement upon request.



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- (4) The use of ice houses, fish houses, campers, recreational vehicles, tents, or accessory structures for overnight lodging by renters is prohibited on a property where a short-term rental unit is located.
  - (5) One location for recreational fires may be allowed, provided it meets all requirements of the state fire code.
  - (6) A building inspection and certificate of occupancy shall be performed and issued by a Minnesota Certified Building Official at the applicant/landowner's expense prior to renting any unit.
  - (7) All short-term rental units shall have at least one full bathroom consisting of a sink, toilet and tub or shower
  - (8) The storage, collection, and disposal of refuse and garbage shall be conducted in accordance with chapter 16 (solid waste management) of the county Code to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.
  - (9) Refuse and garbage collection shall be made at least once each week and more often where necessary to prevent nuisance conditions. Final disposal of refuse and shall be accomplished at a waste management facility permitted by the state and licensed by the county.
  - (10) The permit holder shall provide a physical visual demarcation of the property lines.
  - (11) No other commercial use shall occur on the property, including home occupations. Events including reunions, luncheons, banquets, weddings, fund raising events or other gatherings for direct or indirect compensation, that exceed the occupancy limit, are prohibited at short-term rental units located within the rural residence and rural townsite districts.
  - (12) The county may impose conditions that will reduce the impacts of the proposed use on neighboring properties, public services, nearby water bodies, public safety and safety of renters. Said conditions may include, but not be limited to, fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of renters.
  - (13) All applicants for an interim use permit for a short-term rental unit must contact the Minnesota Department of Health to see if a lodging license is required, as it pertains to the standards contained in Minnesota Rules Chapter 4625. If a lodging license is required by the State of Minnesota for the short-term rental unit, it must be maintained annually, and evidence of the license maintenance shall be provided to the planning agency. If a license is not required, evidence acquired by the IUP applicant from the Minnesota Department of Health shall be supplied to the planning agency.
  - (14) All short-term rentals, operating prior to the effective date of these standards, shall be in compliance with this section by February 1, 2023.
- (c) *Parking requirements.*
- (1) A minimum of two off-street parking spaces shall be provided for the rental unit.
  - (2) Off-street parking spaces must meet parking space size regulations in section 24-310 of the county Code and parking for vehicles and trailers may only be allowed in designated parking spaces.
  - (3) Public streets and rights-of-way shall not be used for parking of trailers or vehicles.
  - (4) Any limitation standard of impervious surface on a property, as specified in chapters of this section, shall be met.
- (d) *Sewage treatment.*

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- (1) The rental unit must either be connected to a municipal sewage treatment facility or must have a subsurface sewage treatment system.
  - (2) If a subsurface sewage treatment system is utilized, it must meet the following criteria:
    - a. It must be sized properly to accommodate the maximum occupancy of the rental unit in accordance with section 6-377, as amended.
    - b. The rental unit must have a valid commercial operating permit for the subsurface sewage treatment system.
    - c. Holding tanks are not allowed for short-term rental units.
    - d. A secondary subsurface sewage treatment location must be identified and protected so that it is not impacted by parking of vehicles or trailers.
- (e) *Rental property manager and notifications.*
- (1) All short-term rental units shall have a designated rental property manager, or "manager" who meets the following requirements:
    - a. The manager must be available 24 hours/day, seven days per week.
    - b. The manager must be able to respond in person within 120 minutes of notification when patrons are present at the dwelling unit.
    - c. The manager must have administrative authority over the property.
    - d. The manager must have knowledge of the short-term rental unit, the property, and the county rules, standards and procedures.
  - (2) A short-term rental owner or designee must provide the name, address and phone number for the rental property manager. The planning agency shall provide the property's manager's contact information to neighboring properties within one-quarter mile of the affected property at the time of permit approval. The owner or designee shall notify the county within ten days of a change of a property manager or a change in the property manager's contact information.
    - a. The owner or designee shall post and maintain the property manager's contact information on the property or on the property's online webpage in a prominent location for viewing by the public.
  - (3) The following information shall be posted within the rental unit in a prominent location, so it is easily visible for guests:
    - a. The property manager's full name, address, and phone number.
    - b. The rental unit's maximum occupancy.
    - c. The location of parking stalls.
    - d. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property, where they are to be parked, and their allowable uses.
    - e. The location of property lines.
    - f. Fire extinguisher(s).
    - g. Property rules related to use of exterior features of the property, quiet hours, pets, refuse disposal, and recreational fires.
    - h. Evidence of a lodging license from the Minnesota Department of Health, if required.

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- i. Conditions of the interim use permit impacted by the actions or behavior of the renters.
  - j. Emergency procedures for a fire, tornado or similar natural disaster.
- (f) *General enforcement of property conditions.*
- (1) Complaints and violations of the short-term rental ordinance shall be processed with the following procedure:
    - a. Issues pertaining to a short-term rental unit should be directed to the designated rental property manager for remedy.
    - b. If an issue is not acknowledged by the rental property manager within 24 hours, and remedy of the issue is not identified by the rental property manager, a complaint may be made to the planning agency for non-emergency issues.
    - c. An emergency issue impacting the immediate safety of residents or visitors should be referred to the appropriate law enforcement agency.
    - d. The planning agency shall investigate all complaints and follow up with the designated owner or rental property manager and complainant. Any complaints substantiated by the planning agency and not resolved with the owner or rental property manager within the time period specified may result in the invalidation of the interim use permit for the short-term rental unit as reviewed by the planning commission and the board of commissioners.
- (g) *Density of use.*
- (1) In the rural residence (RR) or the rural townsite (RT) zoning district, no parcel or lot within 125 feet of a parcel or lot with an existing permitted short-term rental unit, as measured from the property line, shall be eligible for a short-term rental unit IUP.

(Ord. of 1-25-2022(3), Att. 1)

### **Sec. 24-338. Stand-alone accessory buildings.**

Stand-alone accessory buildings shall conform to the following standards:

- (1) Stand-alone accessory buildings are not allowed in the RR and RT districts except water-oriented structures as allowed in chapter 14, section 14-111.
- (2) Stand-alone accessory buildings in the Ag and C districts shall not exceed in total 3,000 square feet except for agricultural buildings. Subsequent accessory buildings shall be included in the allowable 3,000 square feet.
- (3) Stand-alone accessory buildings must meet principal setbacks.
- (4) Stand-alone accessory buildings and subsequent accessory buildings shall not be used for retail sales, industrial uses, vehicle repair, offices, and commercial or service activity, rental storage facility, or human habitation.
- (5) All access to public roads must be approved by the appropriate road authority.

(Ord. of 1-25-2022(2), Att. A)

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**Sec. 24-339. Liquid propane storage tanks.**

The purpose of this section is to establish minimum requirements for regulation of liquid propane storage tank installation and to protect health, safety, and general welfare of citizens of Blue Earth County.

- (1) All liquid propane storage tanks shall be placed and installed in accordance with applicable National Fire Protection Association (NFPA) 58 and Minnesota State Fire Marshal regulations, except as further restricted in this section.
- (2) Liquid propane storage tanks capable of holding 10,000 gallons or larger will require a construction permit, with the following standards:
  - a. Liquid propane storage tanks shall comply with front yard regulation in the appropriate district.
  - b. Liquid propane storage tanks must be located outside of the flood fringe, floodway, or general floodplain district as defined in chapter 8 of the Blue Earth County Zoning Ordinance.
  - c. Liquid propane storage tanks shall comply with the required bluff setback of this chapter.
  - d. Liquid propane storage tanks shall comply with the required county ditch setback of this chapter.

(Ord. of 1-25-2022(1), Att. 1)

**Secs. 24-340—24-350. Reserved.**

***ARTICLE V. PLANNED UNIT DEVELOPMENT***

**Sec. 24-351. Purpose.**

The purpose of this article is to provide the means of designing building complexes containing an internal relationship between building and building, and between building and site that cannot be accomplished through the standard application of this chapter. This article provides a procedure for the development of more than one structure upon a single tract or lot, as well as the integrated development of one or more lots as a single tract in residential, commercial or industrial districts. The planned unit development (referred to as "PUD" in this article) is intended for use only where the usual application of bulk and density controls:

- (a) Usual standards would not provide adequate environmental protection.
- (b) Usual standards would allow design standards detrimental to the natural aesthetic and physical characteristics of the site;
- (c) Usual standards would not provide an efficient and feasible use of the land.

(Ord. of 2-28-2012)

**Sec. 24-352. Administrative procedure.**

The applicant for a PUD shall file a land use development application for the conditional use permit at the office of the zoning administrator and simultaneously follow Chapter 20, pertaining to subdivisions to secure both preliminary and final design approval from the planning commission and the board of commissioners. The application shall state the reasons for requesting the PUD.

(Ord. of 2-28-2012)

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**Sec. 24-353. Development regulations.**

- (a) *Generally.* All other development regulations of the appropriate land use district not specified in this article or specified as a condition to the conditional use permit shall apply to a PUD. It is the intent of this article that subdivision of the land involved (residential, commercial or industrial) be carried out simultaneously with the review of a PUD.
- (b) *Open space and common area.* The land which is to be set aside as open space or common area shall be clearly indicated on the plan. Provisions for recreational area and for continual maintenance of that area not dedicated and accepted by the county shall be required.
- (c) *Conveyance of property.* No conveyance of property within the PUD shall take place until the property is platted in conformance with the provisions of this article and applicable to Chapter 20. All bylaws, property owners' association articles of incorporation and protective covenants must be approved by the county attorney and filed with the record plat.
- (d) *Use of structures.* All buildings shall be used only for those purposes and the customary accessory uses of the land use district in which the PUD is located.
- (e) *Parking and access.* There is to be provided within the tract, or immediately adjacent thereto, parking spaces in private garages or off-street parking areas in accordance with the requirements of section 24-310. Drives and common parking areas must be developed to a standard equal to that required for public use by Sec. 24-310, and must be protected by recorded deed covenants assuring their availability to all residents of the project.

(Ord. of 2-28-2012)

**Sec. 24-354. Site design, conversion of existing common interest communities, resorts, manufactured home parks, and other similar rezoning ordinance nonconforming developments pursuant to Minn. Stats. chs. 515A and 515B.**

- (a) *Intent.* It is the intent of this section to allow for flexibility in the conversion of existing common interest communities, resorts and other similar rezoning ordinance developments. Conversion of such developments from privately owned structures on leased or rented land, or the division of several commonly owned structures on a single parcel of land to individually owned parcels containing separate structures, shall be pursuant to all requirements of Minn. Stats. chs. 515A and/or 515B, as applicable. Conversion of manufactured home parks shall be subject to all additional requirements of Minn. Stats. ch. 327C, park closings.
- (b) *Development density.* The area of the parcel being subdivided and the location of existing structures shall limit the density of the existing development. The developer shall make every effort to minimize the degree of nonconformity with existing lot and area requirements. Lot lines shall be arranged to provide the largest possible setbacks between structures which will become the main buildings on newly created parcels. Outbuildings shall be moved/removed when and where possible to create the lowest, most uniform density possible. Particular attention shall be paid to the intensity of development in relationship to the required space to provide for adequate wastewater treatment, potable drinking water, and compliance with applicable health, safety and fire regulations.
- (c) *Integrated plan.* To the extent possible, the common open space, any other common properties, individual properties, and all other elements of the PUD shall be so planned that they will achieve a unified scheme of integrated planning and a harmonious selection and efficient distribution of uses.
- (d) *Bulk and density controls.*

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- (1) Minimum size of development: five acres.
  - (2) Height of main building: 35 feet.
  - (3) Setback from any dedicated public right-of-way: 25 feet.
  - (4) Distance between main building and any adjoining side yard property line: ten feet.
  - (5) Distance between any accessory building and any adjoining property line: five feet.
  - (6) Distance between main building and adjoining rear yard property line: 25 feet.
- (e) *General standards.*
- (1) The conversion of eligible types of developments shall be subject to a conditional use permit granted by the board of commissioners subsequent to public hearings required by Minn. Stats. ch. 394. The conversion of the planned or common interest community shall be as a planned unit development.
  - (2) Common interest communities shall meet minimum guidelines established by the 1995 Common Interest Community Plat Manual, adopted by the Minnesota Society of Professional Surveyors and Minnesota Association of County Surveyors. Such plat manual and subsequent amendments shall be adopted by reference and shall become part of this chapter. CIC plats, declarations, covenants, and other materials associated with the development, shall be recorded in the county land records department, after approval by the board of commissioners.
  - (3) The CIC process may not be utilized to create new vacant lots for building purposes. Only parcels upon which a structure has been erected may be created for transfer to private ownership.
  - (4) Conditions attached to the conditional use permit shall be carefully considered and shall be designed to protect the public health, safety and welfare. Conditions may limit use of property to existing use, limit future expansion or intensification of use, density, lot coverage and building bulk. Conditions may require repair or removal of buildings and may establish a timetable for the same. Conditions may require restrictions on landscaping and/or removal of vegetation and establishment of vegetative screening, where needed. Conditions may include restrictions on colors of structures, and/or may require repainting of existing structures to neutral colors which blend into the surrounding natural environment.
  - (5) The planning commission shall consider the development as a whole relating to the provision of water and sewer in cases where lots are too small to provide for individual wells and on-site sewage treatment systems, and shall require connection to municipal services, where they are available. In areas where municipal services are not available, design plans shall be presented and approved for a community wastewater treatment system as an integral element of the CIC approval. A timeline to implement the approved wastewater treatment plan and/or eliminate all identified failing septic systems shall be established by the conditional use permit.
  - (6) When variances from the bulk and density controls set forth in subsection (d) of this section are required, such variances shall be obtained from the county board of adjustment before the CIC is presented to the county planning commission and board of commissioners for approval. A list of necessary variances shall be provided by the surveyor or engineer preparing the CIC plat.
  - (7) No planned or common interest community shall be accepted for recording by the county land records department, until approved by the board of commissioners.

(Ord. of 2-28-2012)

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### **Sec. 24-355. Site design; new developments.**

- (a) *Development density.* The number of principal use structures which may be constructed within the PUD shall be determined by dividing the net acreage of the project area by the required lot area per unit which is required in the district in which the PUD is located. The net acreage shall be defined as the project area less the land area dedicated for public streets. The project area includes all the land within the PUD which is allocated for residential, commercial or industrial uses, and for common open space as required by this article. Land to be dedicated for public streets is to be excluded from the project area.
- (b) *Integrated plan.* The common open space, any other common properties, individual properties, and all other elements of the PUD shall be so planned that they will achieve a unified scheme of integrated planning and a harmonious selection and efficient distribution of uses. The PUD shall be of such size, composition and arrangement that its construction, marketing and operation are feasible as a complete unit, without dependence on any subsequent development.
- (c) *Bulk and density controls.* Height, yard and setbacks for residential, commercial and industrial PUD's shall be regulated by the following schedule:
  - (1) Minimum size of development: five acres.
  - (2) Height of main building: 35 feet.
  - (3) Setback from any dedicated public right-of-way: 25 feet.
  - (4) Distance between main building and any adjoining side yard property line: 15 feet.
  - (5) Distance between any accessory building and any adjoining property line: ten feet.
  - (6) Distance between main building and adjoining rear yard property line: 25 feet.

(Ord. of 2-28-2012)

### **Sec. 24-356. Standards for common or public open space; general standards.**

No open area may be accepted as common open space under the provisions of this article unless it meets the following standards:

- (a) The location, shape, size and character of the common open space must be suitable.
- (b) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the PUD, considering its size, density, expected population, topography, and the number and type of structures to be provided.
- (c) Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space, having regard to its topography and unimproved condition.
- (d) The development plan must coordinate the improvements of the common open space and the construction of buildings, structures and improvements in the common open space, with the construction of the permitted structures of the land use district in which the PUD is located.
- (e) If the final development plan provides for buildings or structure improvements in the common open space, the developer must provide a bond or other adequate assurance that the buildings, structures and improvements will be completed, as provided in subsection 24-47(e). The board of commissioners

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shall release the bond or other assurance when the buildings, structures or improvements have been completed according to the development plan.

- (f) The construction and provision of all of the common open spaces and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of the principal structures of the PUD.

(Ord. of 2-28-2012)

### **Sec. 24-357. Conveyance and maintenance of common open space.**

- (a) *Conveyance options.* All land shown on the final development plan as common open space must be conveyed under one of the following options:
  - (1) It may be conveyed to a public agency to maintain the common open space and any buildings, structures or improvements which have been placed on it.
  - (2) It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the PUD. The common open space must be conveyed to the trustees, subject to covenants to be approved by the planning commission and the county attorney which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which ensures its continuing use for its intended purpose. Interest in the common open space shall be undivided and such interest shall not be transferable.
- (b) *Use of common open space.* No common open space may be put to any use not specified in the final development plan unless the plan has been amended to permit that use. No change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any permitted use are expressly reserved.
- (c) *Enforcement of common open space.* If the common open space is not conveyed to a public agency, either one of the following methods of enforcement must be provided:
  - (1) The legal right to develop the common open space for any use not specified in the final development plan must be conveyed to a public agency.
  - (2) The restrictions governing the use, improvement and maintenance of the common open space must be stated as conditions to the conveyance of the common open space, the fee title to the common open space to vest in a public agency in the event of a substantial default in the stated conditions.

If the common open space is not conveyed to a public agency, the enforcement of covenants governing the use, improvement and maintenance of the common open space is the responsibility of the owner and not a public agency.

(Ord. of 2-28-2012)

### **Sec. 24-358. Required covenants, easement and provisions in the plan.**

- (a) *Generally.* The development plan shall contain such proposed covenants, easements and other provisions relating to the bulk, location and density of permitted structures, accessory uses thereto and public facilities as may be necessary for the welfare of the PUD and not inconsistent with the best interest of the entire county. The applicant may be required to dedicate land for street or park purposes and, by appropriate covenants, to restrict areas perpetually (or for the duration of the planned development) as open space for common use. The development, when authorized under subsection 24-47(e), shall be subject to all



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conditions so imposed, and shall be exempted from other provisions of this chapter only to the extent specified in the authorization.

- (b) *Guarantee the provision of common open space.* As provided in subsection 24-47(e), the board of commissioners may require adequate assurance, in a form and manner which it approves, that the common open space shown in the final development plan will be provided. The following methods of assurance are intended as illustrative, and they may be used singly or in combination: The board of commissioners may accept a bond, corporate surety, or other guarantee, in a form which complies with the provisions of Chapter 20, pertaining to subdivisions and in an amount sufficient to purchase the common open space shown in the final development plan or alternative acreage which is equivalent in size and character.

(Ord. of 2-28-2012)

### **Sec. 24-359. Final approval.**

- (a) *Generally.* When the board of commissioners gives final approval, a certificate of occupancy shall be issued for the planned unit development even though the size of lots, depth of yards, and the required distance between grouped buildings and the building height may not conform in all respects to the regulations of the district in which the project is to be located.
- (b) *Final action by applicant.* The applicant shall then review his application and plan in its final approved form and sign a statement that the planned unit development plan in its final form shall be made binding on the applicant, any successors in interest and assigns.
- (c) *Control of planned unit development following acceptance.* All changes in use or rearrangement of lots, blocks and building tracts, any changes in the provisions of common open spaces, and all other changes in the approved final plan must be reviewed by the planning commission and approved by the board of commissioners, under the procedures authorized for the amendment of this chapter. No amendments may be made in the approved final plat unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the county.
- (d) *Amendments to the final development plan.* All changes in use or rearrangement of lots, blocks and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final plan must be reviewed by the planning commission and approved by the board of commissioners. No amendments may be made in the approved final plan unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the county.

(Ord. of 2-28-2012)

### **Sec. 24-360. Failure to begin planned unit development.**

If no construction has begun or no use established in the PUD within one year from the final approval of the final development plan, the final development plan shall lapse and be of no further effect. In its discretion and for good cause, the board of commissioners may extend for one additional year the period for the beginning of construction.

(Ord. of 2-28-2012)

### **Secs. 24-361—24-500. Reserved.**

## **ARTICLE VI. URBAN FRINGE OVERLAY DISTRICT (UFD)**

### **Sec. 24-501. Purpose.**

- (a) The purpose of this UFD is to prevent encroachment of nonfarm uses into agricultural lands, and to allow for the orderly conversion of agricultural lands to urban type uses which are serviced by municipal water and sewer systems. Some of the nonfarm land uses within the underlying districts are not compatible with, and/or may interfere with, the orderly development of the area for future urban uses if allowed to develop without the limitations imposed by this UFD. Limiting the intensity of development within the UFD ensures that development occurs in a fiscally and environmentally responsible manner consistent with future development plans for the area.
  - (b) Land use planning within the UFD should be a cooperative effort between the county and municipality in order to work towards the most efficient, planned and cost-effective delivery of government services. Planning within the UFD must also ensure compatibility of one community's development with the development of neighboring communities or jurisdictions.
  - (c) The UFD standards allow for the continuation and maintenance of existing nonfarm uses in the UFD.
- (Ord. of 2-28-2012)

### **Sec. 24-502. Uses.**

- (a) *Permitted uses.* The following uses are permitted within the UFD:
  - (1) Single-family dwellings in the RR and RT districts, provided that the dwelling is located on a lot of record in existence on the effective date of the ordinance from which this article is derived.
  - (2) Single-family dwellings in the C and A districts at a density of one residence per quarter-quarter section (40 acres). Transfer of development rights and bonus lots may be utilized to exceed the permitted housing density of one dwelling per quarter-quarter section (40 acres), providing that the density does not exceed four dwellings per quarter-quarter section (40 acres) in the receiving quarter-quarter section (40 acres).
  - (3) Agricultural and incidental agricultural related uses in the RR, A and C districts, including agricultural buildings.
  - (4) Feedlots of 100 animal units or less in the A district.
  - (5) Flood control and watershed structures.
  - (6) Level I home occupations in the A and C districts.
  - (7) Any permitted use in the GB, HB or LI districts, provided that the use is located on a lot of record in existence on the effective date of the ordinance from which this article is derived.
  - (8) Railroad lines and switching yards.
  - (9) Land spreading of septage and sewage sludge in the A district as regulated by the state and Federal EPA.
  - (10) Noncommercial wind energy conversion system in all zoning districts.
  - (11) Small solar energy systems (not allowed in floodplains).

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- (b) *Conditional uses.* The following uses may be allowed as conditional uses within the UFD, subject to the provisions of article II of this chapter:
- (1) Any conditional use in the GB, HB or LI district, provided that the use is located on a lot of record in existence on the effective date of the ordinance from which this article is derived.
  - (2) Buildings owned and operated by a governmental agency for a public purpose.
  - (3) Essential service utility structures or buildings, including broadcasting facilities, antennas and pipelines.
  - (4) Parks, recreational areas, wildlife areas, game refuges and forest preserves.
  - (5) New feedlots over 100 animal units or the expansion of existing feedlots over 100 animal units in the A district.
  - (6) Manure storage structures in the A district.
  - (7) New landfills or expansion of existing landfills.
  - (8) Commercial wind energy conversion system in the A zoning district, LI district, and HI district.
- (c) *Permitted accessory uses.* Permitted accessory uses in the UFD shall be other accessory uses customarily incidental to the permitted and conditional uses listed in subsections (a) and (b) of this section, except no accessory buildings shall be allowed within the required front yard.
- (d) *Interim uses.* The following uses may be allowed as interim uses within the UFD, subject to the provisions of article II of this chapter:
- (1) Extraction of minerals and associated processing activities in the C, A and HI districts, subject to requirements of section 24-329.
  - (2) Any interim use in the GB, HB or LI district, provided that the use is located on a lot of record in existence on the effective date of the ordinance from which this article is derived.
  - (3) Garden nurseries and greenhouses in the RR, A and C districts.
  - (4) Level I home occupations in the RR and RT districts.
  - (5) Level II home occupations in the A and C districts.
  - (6) Short-term rental units as regulated by section 24-337.

(Ord. of 2-28-2012; Ord. of 2-21-2014; Ord. of 2-16-2016; Ord. of 8-25-2020(1); Ord. of 1-25-2022(3), Att. 1)

### **Sec. 24-503. Height, yard, lot area, width, depth and coverage.**

- (a) *General regulations.* All height, yard, lot area, lot width, lot depth and lot coverage regulations in the UFD shall comply with the requirements of the underlying zoning district.
- (b) *County State Aid Highway 90; front yard regulations.* There shall be a front yard setback of not less than 100 feet from the right-of-way line of County State Aid Highway 90 in the UFD.

(Ord. of 2-28-2012)

### **Sec. 24-504. General standards.**

The application of the UFD shall comply with the following general standards:

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- (a) Every lot of record or use shall have approved access to a public road or highway. No new use shall be established and no expansion of an existing use shall be permitted if the lot of record does not have access to a public road or highway. All accesses or expansions or modifications to existing accesses in the UFD shall be in accordance with approved transportation plans adopted by the municipality, township, the state department of transportation or the county.
  - (b) Water usage and ability of the site to self-provide for adequate on-site wastewater treatment and disposal shall be considered before any permits are granted for expansions of existing development. Permits shall not be granted for any expansion of any development within the UFD if the site's soil, topography or any other factor prevents the installation of an adequate on-site septic system meeting the requirements of article V of chapter 6 of this Code, or if any factor prevents expansion of the existing on-site septic system to meet this chapter's standards.
  - (c) Rezoning, dividing, subdividing or re-subdividing property for the purpose of expanding existing nonfarm uses or for developing new nonfarm uses shall be prohibited.
  - (d) Nothing within the standards of this UFD shall be interpreted to allow uses not permitted in an underlying zoning district.
  - (e) Existing uses of land which are not listed as permitted or conditional uses within the UFD shall be considered legally nonconforming and shall comply with section 24-309.
  - (f) If an amendment is requested to the overlay or underlying zoning district, the municipality shall be informed of the request and shall have a 30-day comment period to review and respond. The municipality's review and response shall examine whether the amendment is consistent with the goals and objectives of the municipal land use plan, how the request impacts the delivery of municipal services, and how the request impacts the planned capacity of municipal services. Amendments shall not be granted indiscriminately, and shall only be granted when necessary to reflect changes in the goals and policies of the community via agreement between municipality and county as reflected in the county's comprehensive development plan.

(Ord. of 2-28-2012)

**Secs. 24-505—24-524. Reserved.**

## ***ARTICLE VII. ORDERLY ANNEXATION AREAS***

### **Sec. 24-525. Purpose.**

The purpose of this article is to address situations in which a township within Blue Earth County has entered into a joint resolution for orderly annexation, under Minnesota Statutes, with a statutory or home rule charter city.

Land use planning in areas subject to orderly annexation agreements should be a cooperative effort between the county, township, and municipality in order to work toward the most efficient, planned and cost-effective delivery of government services.

This section will apply to all areas of Blue Earth County that are included within a joint resolution for orderly annexation and are subject to the provisions of this article.

(Ord. of 2-28-2012)

**Sec. 24-526. Review of zoning, subdivisions and permits.**

The following shall apply to all lands located within an area subject to the provisions of a joint resolution for orderly annexation:

- (a) Prior to the county accepting an application from any property owner, person(s) or business entity to have any parcel of land subdivided, platted, or re-zoned, or prior to accepting an application for a variance, conditional use permit, construction permit, or a land use permit for the demolition, construction, repair or improvement of a building within the township, the proposed application must be submitted to the township and the city for review.
- (b) The county must receive written authorization from both the township and the city that the proposed application does not require annexation under the terms of the joint resolution for orderly annexation before any application can be considered complete.
- (c) Any application which is determined by either the township or the city to require annexation under the terms of the joint resolution for orderly annexation must not be accepted by the county.

(Ord. of 2-28-2012)

**CODE COMPARATIVE TABLE  
ORDINANCES**

This is a chronological listing of the ordinances used in the Code. Repealed or superseded laws at the time of the codification, and any omitted materials are not reflected in the table.

| Ordinance Number | Date            | Section | Section this Code |
|------------------|-----------------|---------|-------------------|
|                  | 1-23-1973(Ord.) | 1       | 16-1              |
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|  |  | Added | 24-162(a)(2)      |
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|  |  | as    | 24-162(a)(3)–(16) |
|  |  |       | 24-192(a)(1)      |
|  |  | Added | 24-192(a)(2)      |
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|  |  |       | 24-212(a)(1)      |
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|  | 1-25-2022(3)(Ord.) | Att. 1<br>Added | 24-112(c)(21),<br>24-137(c)(16),<br>24-162(c)(6),<br>24-192(c)(6),<br>24-502(d)(6),<br>24-337   |
|  | 3-22-2022(Ord.)    | Att. 1<br>Added | 14-4<br><br>14-82(d)(1)a.3.iii,<br>b.3.iv, c.3.ii,<br>(2)a.3.iii,<br>b.3.iv, c.3.ii,<br>(3)a.3.iii,<br>b.3.iv, c.3.ii,<br>(4)a.3.iii,<br>b.3.iv, c.3.ii,<br>(5)a.3.iii,<br>b.3.iv, c.3.ii,<br>(6)a.3.iii,<br>b.3.iv, c.3.ii |

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