

**CLAY COUNTY DEVELOPMENT CODE
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CHAPTER 1
TITLE; AUTHORITY; GENERAL PROVISIONS

8-1-1: TITLE

8-1-2: STATUTORY AUTHORIZATION

8-1-3: PURPOSE

8-1-4: INTENT AND FUNCTIONS

8-1-5: JURISDICTION/RELATIONSHIP TO OTHER JURISDICTIONS

8-1-6: COMPLIANCE REQUIRED FOR ALL DEVELOPMENT

8-1-7: INTERPRETATION

8-1-1: TITLE:

This Ordinance shall be known, cited, and referred to as the *CLAY COUNTY LAND DEVELOPMENT ORDINANCE: ZONING AND SUBDIVISION REGULATIONS*.

8-1-2: STATUTORY AUTHORIZATION:

This Ordinance is adopted pursuant to the authority granted in Minnesota Statutes Annotated chapter 394, as amended; "Statewide Standards and Criteria for Management of Flood Plain Areas in Minnesota" in accordance with the authority granted in Minnesota Statutes Annotated chapter 103F, and Minnesota Regulations parts 6120.5000 through 6120.6200, as amended; and "Statewide Standards and Criteria for Management of Shoreland Areas of Minnesota", Minnesota Statutes Annotated chapter 103G, and Minnesota Regulations parts 6120.2500 through 6120.3900, as amended.

8-1-3: PURPOSE:

This Ordinance is enacted for the general purposes of promoting the public health, safety, morals, and general welfare; provide for adequate light, air, and water; provide for safety from fire, flood, and other dangers; prevent undue concentration of population; preserve property values; preserve prime agricultural land; facilitate the provision of adequate public facilities; and preserve and enhance the quality of surface and ground water. In addition, this Ordinance is enacted for the following specific purposes:

- A. Flood Hazard Areas:** The special flood hazard areas of Clay County are subject to periodic inundation that results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures on flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare and to minimize those losses described above by provisions contained herein. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
- B. Shorelands:** The uncontrolled use of shorelands 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 State Legislature has delegated responsibility to local governments of the State to regulate the subdivision, 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.

- C. Development in Unincorporated Area:** The control of land use in the unincorporated area of the County will promote orderly, aesthetic development and a logical sequence of development. Incompatible land uses should be separated, thereby promoting the health, safety, and public welfare and enhancing the local tax base. It is in the best interest of the public to provide for the wise subdivision, use, and development of the lands of the County.

8-1-4: INTENT AND FUNCTIONS:

The purposes of this Ordinance are to be achieved by regulating the following: the location, height, bulk, number of stories, and size of buildings and other structures; the percentage of lot area which may be occupied, the size of yards and other open spaces; the density and distribution of population; the uses of land, buildings, and structures for trade, industry, residences, recreation, public activities, and agriculture; the development of shorelands and flood hazard areas.

Regulation shall be accomplished by:

- A. Standards and Procedures:** Establishing standards and procedures regulating such uses;
- B. Subdivision:** Providing for the subdivision of land;
- C. Zoning Districts:** Dividing the unincorporated areas of the County into zones or districts;
- D. Administration:** Defining duties of the administering officers;
- E. Amendment:** Providing for amendments; and
- F. Enforcement:** Prescribing penalties for the violation of the provisions of this Ordinance or amendments thereto.

8-1-5: JURISDICTION/RELATIONSHIP TO OTHER JURISDICTIONS:

The provisions of this Ordinance shall apply to all the area of the County outside the corporate limits of municipalities except:

- A. Municipal Extraterritorial Jurisdiction:** Applications for development within Clay County where the development parcel lies within the extraterritorial jurisdiction area of a municipality that has exercised extraterritorial jurisdiction shall be subject to the subdivision review of such municipality which may vary from county subdivision provisions. However, the zoning regulations of Clay County as contained in this Ordinance shall remain in effect within any municipal extraterritorial jurisdiction.
- B. Township Zoning:** Land within Clay County may be subject to zoning and subdivision regulations adopted by the township where the parcel is located. Where townships have adopted regulations that conflict with the provisions of this Ordinance, the most restrictive provisions shall apply. Where Townships have adopted an ordinance pursuant to applicable statutes, it shall be the responsibility of the property owner to secure necessary permits from the township zoning official or township board. Clay County is not responsible for the administration of township regulations.

8-1-6: COMPLIANCE REQUIRED FOR ALL DEVELOPMENT:

Beginning on the effective date of this Ordinance and subsequent amendments, all development of land in the County shall be in conformance with the provisions of this Ordinance and other applicable regulations. Any development not in conformity with these regulations shall be regarded as nonconforming, but may be continued, subject to the regulations provided in Chapter 2 of this Ordinance.

A. Definition. Development Defined: Except as otherwise provided, "development" means the commencement of any building or mining operation, the making of a change in the use or appearance of any structure or land, the parceling of land into one or more lots and the creation or termination of rights of access or riparian rights. Development includes all other activities customarily associated with it unless otherwise specified. Reference to any specific operation as not involving development is not intended to mean that the operation or activity when part of other operations or activities are not development. Reference to particular operations is not intended to limit the generality of subsection 1, below.

1. **Activities or Uses Considered Development:** The following activities or uses shall be considered "development" as defined in this Section:
 - a. **Change in Use:** A change in the use of a structure or land;
 - b. **Reconstruction or Alteration of a Structure:** Reconstruction or alteration of a structure, including, but not limited to alteration of the size of the structure;
 - c. **Increase in Intensity of Use:** An increase in the intensity of use of land such as an increase in the number of businesses, manufacturing establishments, office or dwelling units in a structure or on a parcel of land, or expansion of the area of a structure or a parcel of land that is dedicated to a land use;
 - d. **Mining or Excavation:** Commencement or expansion of mining or excavation on a parcel of land;
 - e. **Fill:** Deposit of refuse, soils or other materials to fill a parcel of land;
 - f. **Alteration of Shore, Bank or Flood Plain:** Alteration of a shore, bank or flood plain of a river, stream, lake, pond or artificial bodies of water;
 - g. **Reestablishment of Use:** Reestablishment of a use which has been abandoned for one year;
 - h. **Subdivision:** Residential, commercial or industrial subdivisions;
 - i. **Departure from Normal Use:** Departure from the normal use for which development permission has been granted or failure to comply with the conditions of this Ordinance or order granting the development permission under which the development was commenced or is continued.
 - j. **Access:** Any request for an Access Connection (new, changed, modified, altered, re-constructed, etc.) onto a County highway or public right-of-way which includes any field entrance, driveway or public/private roadway (see Section 8.3.6 for further details). This includes any type of access such as permanent, temporary or field access/opening.
2. **Operations Not Considered Development:** The following operations or uses do not constitute development for the purposes of this Ordinance:
 - a. **Maintenance or Improvement of Public Road or Railroad:** The maintenance or improvement of a public road or railroad track not involving engineering redesign if the work is carried out on land within the boundaries of the right of way;

- b. **Work by Utility:** Work by any utility not involving engineering redesign for the purpose of inspection, repair, renewal or construction on established right of ways of any sewer, mains, pipes, cables, utility tunnels, power lines, towers, poles tracks or the like;
- c. **Work on Interior of Structure; Change of Exterior Color:** Work for the maintenance, renewal, improvement or alteration of any structure if the work affects only the interior, or the color of the structure or decoration of the exterior of the structure but does not otherwise result in a structural alteration. Nonstructural roofing and window replacement are not considered development;
- d. **Transfer of Title:** A transfer of title to land not involving the division of land into parcels;
- e. **Agreements:** The creation of lease agreements or other agreements of possession for existing parcels of land;
- f. **Easements; Covenants:** The creation or termination of easements or covenants concerning development of land or other rights in land not otherwise involving development.

8-1-7: INTERPRETATION:

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

- A. **Abrogation and Greater Restrictions:** This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
- B. **Warning and Disclaimer of Liability:** This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
- C. **Severability:** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

CHAPTER 2
LOTS OF RECORD; NONCONFORMITIES

8-2-1: LOTS OF RECORD

8-2-2: NONCONFORMING USES AND STRUCTURES IN ALL DISTRICTS

8-2-3: NONCONFORMING USES AND STRUCTURES IN FLOOD HAZARD ZONES

8-2-4: NONCONFORMING USES AND STRUCTURES IN SHORELAND DISTRICTS

8-2-1: LOTS OF RECORD:

All lots legally recorded in the office of the County Recorder prior to the effective date of this Ordinance are considered to be lots of record and, therefore, buildable even though such lots may not conform to the provisions of this Ordinance, provided all of the following requirements are met:

- A. Separate Ownership:** Such lots have separate ownership from abutting lands;
- B. Sanitary, Setback Requirements:** All sanitary and setback requirements of the County are complied with insofar as practical;
- C. Lot Frontage, Area:** Such lots occupy no less than seventy-five percent (75%) of the minimum requirements of the appropriate district for lot frontage and minimum lot area. This provision shall not apply to nonconforming, substandard lots of record with existing structures thereon;
- D. Permissible Use:** The proposed use is an allowed use within the applicable zoning district; and
- E. Floodproofing:** Within any flood plain zone, the proposed use must be elevated on fill or floodproofed to the regulatory flood protection elevation according to the standards contained in this Ordinance.

8-2-2: NONCONFORMING USES AND STRUCTURES IN ALL DISTRICTS:

In all zoning districts, a structure or the use of a structure or premises which was lawful before the passage or amendment hereof but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

- A. Discontinued or Abandoned:** If a nonconforming use or nonconforming structure is discontinued or abandoned for a period of one year, further use of the structure shall conform to this Ordinance. The Zoning Administrator may be made aware of discontinuance or abandonment by staff observation or other evidence, in addition however, the County Assessor shall notify the Zoning Administrator in writing of all instances where a nonconforming use or structure has been discontinued or abandoned for a period in excess of twelve (12) consecutive months.
- B. Change in Use:** Changes in nonconforming uses shall comply with the following provisions:
 - 1. **Change to Allowed Use:** A nonconforming use may be changed to a permitted or conditional use that is allowed in the zoning district where the use is located.
 - 2. **Change to Use of Lesser Intensity:** The nonconforming use of a structure and land may be changed to another nonconforming use if approved by the Planning Commission as a conditional use. Such change shall be allowed only if the new use is of lesser intensity than the original nonconforming use.
 - 3. **Cannot be Re-established:** In every instance where a nonconforming use is replaced by a

conforming use, no nonconforming use on that site shall be resumed.

- C. Increase in Nonconformity Prohibited:** Nonconforming use of a structure, nonconforming use of land, or nonconforming structures shall not be expanded, enlarged, intensified, or altered in a way that increases its nonconformity.
- D. Maintenance and Nonstructural Repairs:** Normal maintenance and nonstructural repairs and alterations and structural alterations necessary for the safety of a structure are permissible. Such activities, however, shall not expand or intensify the nonconforming use of a structure or land. Normal maintenance and nonstructural repairs and alterations shall be limited to the following:
1. Residing;
 2. Reshingling and/or reroofing;
 3. Installation of storm windows;
 4. Painting;
 5. Redecorating; limited to interior painting, wallpapering, and/or installation of carpeting;
 6. Replacement or conversion of heating systems; and
 7. Repairs to plumbing or electrical systems.
- E. Health and Safety:** Repairs and alterations necessary to comply with health and safety provisions of the County sanitary or public nuisance ordinances are permissible. Such repairs and alterations shall include the following:
1. Installation of indoor plumbing;
 2. Rewiring to comply with the electrical code; or
 3. Insulating a structure.
- F. Access for Disabled Persons:** Alteration necessary to accommodate the needs of a disabled person residing in a nonconforming residence are allowed but shall not include an expansion in the exterior dimensions of the nonconforming structure. Allowed alterations may include unenclosed access ramps, widening of doors, and other nonstructural alterations.
- G. Limitation on Repairs and Alterations:** Normal maintenance and nonstructural alterations and repairs and structural alterations necessary for the safety of the building as permitted in subsections D. and E. of this Section 8-2-2 shall not exceed fifty percent (50%) of the market value or replacement cost of said structure, whichever is less, within any given three (3) year period.
- H. Damaged Over Fifty Percent of Value:** If a nonconforming structure is damaged to an extent exceeding fifty percent (50%) of its market value or replacement cost, whichever is less, any future structure or rebuilding of the structure on the site shall conform to the applicable regulations of this Ordinance. Additionally, the reestablishment of a nonconforming use of a structure or land is disallowed when damages are in excess of the aforementioned fifty percent (50%) figure, and the status of the lot upon which such structures sit, whether it be a conforming lot or a nonconforming substandard lot of record, shall have no bearing on this determination.
- I. Fire, Flood, or Other Natural Disaster:** In the event of a fire, flood or other natural disaster leading to the damage or destruction of nonconforming uses and structures, the following procedures shall be initiated by the Zoning Administrator on behalf of the County:
1. **Identification; Notice:** The Zoning Administrator, with the assistance of the County Civil Defense Director and/or County Engineer, shall identify all nonconforming structures or uses

sustaining appreciable levels of damage. Following the identification of damaged nonconforming structures, the Zoning Administrator shall inform all affected parties by mail that no repair or rebuilding activities shall be initiated until notification from the Zoning Administrator.

2. **Determination of Damage:** The Zoning Administrator shall determine the percentage of damage to a nonconforming use or structure by survey and by the use of either or all of the following indices:
 - a. County Assessor's records;
 - b. Insurance adjuster's damage survey;
 - c. Appraisal of replacement or market value, as appropriate, by a qualified appraiser subject to final approval by the County; or
 - d. National Flood Insurance Program proof of loss statement, if available.
 3. **Repair and Maintenance Permit for Nonconforming Structures:** Those nonconforming structures not damaged in excess of fifty percent (50%) of the market value or replacement cost of the structure, whichever is less, will be notified in writing that repairs can commence pending the approval and issuance of a repair and maintenance permit for nonconforming structures, as long as the structure is not expanded in any way.
 4. **Damage Over Fifty Percent:** Nonconforming structures damaged to a level in excess of fifty percent (50%) of the structure's market value or replacement cost, whichever is less, shall be ticketed and the ticket shall state that:
 - a. **Conformance Required:** The use or structure is nonconforming and cannot be rebuilt or repaired except in conformance with provisions of this Ordinance. The applicable provisions will be stated on the ticket.
 - b. **Zoning Certificate:** The owners of the nonconforming structure must apply for and receive approval of a zoning certificate before such rebuilding can be initiated and must commence rebuilding within ninety (90) days of the date of ticketing. The structures must be rebuilt within one year of the issuance of a zoning certificate.
 - c. **Occupancy Permit:** Occupancy of a nonconforming structure will not be permitted until an inspection by the Zoning Administrator reveals that substantial repairs as identified on the ticket have been done in a manner consistent with the provisions of this Ordinance and an occupancy permit is issued.
 - d. **Rebuilding Prohibited:** Nonconforming structures and uses in floodway areas damaged in excess of fifty percent (50%) of the structure's market value or replacement costs, whichever is less, cannot be rebuilt. Nor can nonconforming structures in flood fringe areas, damaged in excess of fifty percent (50%) of the structures market value or replacement cost, whichever is less, that cannot be elevated on fill or floodproofed to County floodproofing standards and the regulatory flood protection elevation (RFPE) be rebuilt. Such structures must be removed or demolished.
- J. Declared Hazard:** When nonconforming structures or portions of a structure containing nonconforming uses become physically unsafe or unlawful due to lack of repairs, maintenance, or general neglect (as in the case of abandonment,) the Zoning Administrator may declare such structures health or safety hazards and, therefore, violations of the public nuisance provisions of Title 5, Chapter 1 of this Code by virtue of the structure's physical condition alone. Repairs shall be made as ordered by the Zoning Administrator and in the case such structures are damaged in excess of fifty

percent (50%) of their market value or replacement cost, whichever is less, the repairs shall conform to the provisions of subsection G, above.

8-2-3: NONCONFORMING USES AND STRUCTURES IN FLOOD HAZARD ZONES

In addition to the provisions 8-2-2, the following provisions shall apply to nonconforming uses and structures in flood hazard zones.

- A. Intensification of Nonconforming Uses:** There shall be no intensification in use of an existing nonconforming use that would result in a structural alteration to the existing structure or increase its flood damage potential.
- 1. Dimensional Area:** A nonconforming use of a structure or land within a flood hazard zone shall not be enlarged, increased, or extended to occupy a greater dimensional area than was occupied on the effective date of adoption hereof.
- B. Enlargement or Structural Alteration of Nonconforming Structures:** A nonconforming structure may be enlarged or altered so long as such enlargement or alteration does not increase the existing degree of nonconformity or flood damage potential. Any structural alteration or addition to a nonconforming structure that would increase its flood damage potential shall be subject to the following provisions:
- 1. Floodproofing/Elevation on Fill:** Such alteration or enlargement shall be elevated on fill or floodproofed to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 Floodproofing Classifications) allowable in the State Building Code, except as further restricted in B.2.C and D. below.
 - 2. Cost of Structural Alterations or Additions Limited:**
 - a. Limit Imposed:** The cost of structural alterations or additions to any nonconforming structure shall not, over the life of the structure, exceed fifty percent (50%) of the current market value of the structure unless the entire structure is made to conform to this Ordinance.
 - b. Calculation of Cost:** The cost of all structural alterations and/or additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
 - c. Exceeds Limit:** If the cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure then the entire structure must meet the standards of Section 8-5A-6 and 8-5A-7 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
 - 3. Increase in Stage of Regional Flood:** There shall be no alteration or enlargement of an existing nonconforming structure in the Floodway District that would result in an increase in the stage of the regional flood.
- C. Damage to Nonconforming Uses and Structures in a Flood Hazard Zone:** The following shall apply to nonconforming structures in the Flood Fringe District that area damaged:
- Nonconforming uses and structures in a Flood Hazard Zone that are substantially damaged, as defined in Section 8-8-2 shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Section 8-5A-6 and 8-5A-8 will apply depending upon whether the use or structure is in the Floodway Flood Fringe or General Flood Plain District, respectively.

- D. Substantial Improvements to Nonconforming Uses and Structures in a Flood Hazard Zone:** If a substantial improvement occurs, as defined in Section 8-8-2 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Sections 8-5A-6 and 8-5A-7 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
- E.** For substantially damaged and substantially improved structures as described in C. and D. above and the enlargement or alteration of structures as described in B-1 above, the following provisions shall be required:
1. **Floodproofing Requires a Conditional Use Permit:** Such floodproofing requirements, including diking, are considered conditional uses and must receive approval by the appropriate watershed board as well as the Clay County Planning Commission.
 2. **Standard for Approving a Conditional Use Permit:** Approval of such a conditional use is contingent upon certification by a registered professional engineer or architect that the floodproofing techniques to be employed will not result in any increase whatsoever in flood heights, and that the structure will be protected to the regulatory flood protection elevation.
 3. **Removal of Nonconforming Status:** If the elevating on fill or floodproofing measures for such structures are feasible, complied with, and if the certifications required in subsection 2., immediately above are received, the structure in question may be eliminated from the County's nonconforming use category.

8-2-4: NONCONFORMING USES AND STRUCTURES IN SHORELAND DISTRICTS

In addition to the provisions 8-2-2, the following provisions shall apply to nonconforming uses and structures in Shoreland Districts.

A. Construction on Lots of Record:

1. **Allowed:** Lots of record that do not meet the lot area and width requirements of Chapter 5, Article 3B of this Ordinance may be allowed as building sites without variances from lot size requirements provided that all of the following provisions are met:
 - a. The proposed use is a permitted use in the zoning district in which the lot of record is located;
 - b. The lot has been in separate ownership from abutting lands at all times since it became substandard;
 - c. The lot was created compliant with official controls in effect at the time;
 - d. All sewage treatment requirements of this Ordinance are met; and
 - e. All setback requirements for the Shoreland District where the lot of record is located are met.
2. **Variance Required if Setbacks Not Met:** If a proposed structure does not meet the setback requirements for the Shoreland District where the lot of record is located, a variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

3. **Combining Lots:** If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of subsection A.1., above, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of subsection A.1., above, as much as possible.

B. Additions/Expansions to Nonconforming Structures:

1. **Outside Dimensions:** All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Chapter 5, Article 3B of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 8-4-5 of this Ordinance.
2. **Deck Additions:** Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - a. The structure existed on the date the structure setbacks were established;
 - b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - c. The deck encroachment toward the ordinary high water level does not exceed fifteen percent (15%) of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty feet (30'), whichever is more restrictive; and
 - d. The deck is constructed primarily of wood, and is not roofed or screened.

C. Nonconforming Sewage Treatment Systems:

1. **Upgrade Required:** A sewage treatment system not meeting the Clay County requirements for individual sewage treatment systems 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 provision, 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.
2. **Conforming Systems Defined:** Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes Annotated section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing. Systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above ground water than required by the Minnesota Pollution Control Agency's chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

CHAPTER 3
GENERAL PROVISIONS APPLYING IN ALL DISTRICTS

- 8-3-1: BUILDABLE AREA/MINIMUM LOT SIZE**
- 8-3-2: YARD EXCEPTIONS**
- 8-3-3: HIGHWAY SETBACKS**
- 8-3-4: UTILITY RIGHT-OF-WAY SETBACKS**
- 8-3-5: FENCES**
- 8-3-6: TRAFFIC CONTROL/ACCESS MANAGEMENT**
- 8-3-7: MANUFACTURED HOMES**
- 8-3-8: TREES; TREE PLANTING**
- 8-3-9: HOME OCCUPATIONS, STANDARDS FOR APPROVAL**
- 8-3-10: ESSENTIAL SERVICES**
- 8-3-11: FLOODPROOFING MEASURES**
- 8-3-12: GENERAL PARKING REQUIREMENTS**
- 8-3-13: SIGNS**
- 8-3-14: STORAGE OF MANURE**
- 8-3-15: PROVISIONS FOR KEEPING ANIMALS ON RESIDENTIAL PARCELS:**

8-3-1: MINIMUM LOT SIZE:

Wetlands shall be excluded from the area considered for meeting any minimum lot size requirements of this Ordinance. Buildable area shall mean the upland area of a lot remaining after the minimum yard setback requirements of this Ordinance have been complied with.

8-3-2: YARD EXCEPTIONS:

Yard setback requirements specified for zoning districts in Article 3A through 3J shall be subject to the following exceptions:

A. Front Yard Exceptions:

1. **Ornamentations:** Eaves, cornices, belt courses, and similar ornamentations may project over a front yard not more than two feet (2').
2. **Platforms, Terraces, Steps, Open Porches:** Steps, terraces, platforms and porches having no roof covering and being not over forty-two inches (42") in height may extend into a front yard.

B. Side Yard Exceptions:

1. **Ornamentations:** Eaves, cornices, belt courses and similar ornamentations may project over a side yard not more than two feet (2').
2. **Platforms, Terraces, Steps:** Platforms, terraces and steps not over forty-two inches (42") in height may extend into a side yard. Platforms, terraces and steps shall be located at least five feet (5') from side yard lot lines.
3. **Fireplaces:** Fireplaces may extend into a side yard a distance of not more than eighteen inches (18").

C. Rear Yard Exceptions:

1. **Ornamentations:** Eaves, cornices, belt courses, and similar ornamentations may extend into the rear yard.

2. **Platforms, Terraces, Steps, Open Porches:** Steps, terraces, platforms and porches having no roof covering and being not over forty-two inches (42") in height may extend into a rear yard.
3. **Garages:** Private garages, attached to a dwelling, may extend into the rear yard.

8-3-3: HIGHWAY SETBACKS:

Front Yard setbacks from roads in all zoning districts shall meet the following requirements.

- A. **Minimum Setbacks:** Development shall meet the following minimum front yard setbacks from listed road types. The listed road types are the functional classifications indicated in the County Transportation Report.

<u>Road Type</u>	<u>Setback</u>
Principal arterial	175 feet
Collector	125 feet
Township road	125 feet

Township road located entirely within a platted subdivision or:

Local road	90 feet
Local road (Oakport Township)	75 feet
Local road (UED)	65 feet

- B. **Measured from Center Line:** The front yard setback requirements in subsection A., above, shall be measured from the nearest center line of the right of way.
- C. **Cul-de-Sacs:** The front yard setback from cul-de-sacs shall be twenty feet (20') and shall be measured from the edge of the road right-of-way.
- D. **Front Yard Setback Averaging:** Where structures existing on the effective date of this Ordinance on lots contiguous to the lot or parcel proposed for development, have a different setback from that required in subsection A., above, the front yard setback of a new structure may approximate the prevailing setback in the immediate vicinity. The zoning administrator shall determine the necessary front yard requirements in such cases.

8-3-4: PIPELINE RIGHT-OF-WAY SETBACKS:

All structures shall be setback a minimum of sixty feet (60') from the edge of any public or private utility pipeline right-of-way.

8-3-5: FENCES:

The following requirements shall apply to fences in all zoning districts.

- A. **Residential Sight-Obscuring Fence Prohibited:** No sight-obscuring fence over forty-eight inches (48") in height shall be erected within the front yard of any lot used for residential purposes.
- B. **Maximum Height:** No fence shall exceed a height of six feet (6') without first obtaining a permit from the zoning administrator.
- C. **Within Road Right of Way or Ditch Back Slope:** No fence shall be erected on a road right of way

or within the confines of the ditch back slope.

D. Fences to Confine Animals on Residential Lots: Fences erected to confine allowed animals on residential lots or parcels shall conform to the following requirements:

1. **Exception:** These provisions shall not apply to single residential parcels where they abut agricultural parcels.
2. **Required:** Fences conforming to the provisions of this subsection shall be required for the keeping of allowed horses and other allowed large animals, not including domesticated dogs and cats.
3. **Setback:** Fencing required under this subsection shall be located at least five feet (5') from any property line of an adjacent platted residential subdivision.

E. Electric Fences:

1. **Conformance with Codes Required:** Electrical fences shall conform in all respects to the state regulations for electrical wiring, and shall be energized only with underwriters' laboratories approved equipment.
2. **Warning Signs:** Electric fences in or adjacent to a platted area shall be marked by warning signs every fifty feet (50').

8-3-6: TRAFFIC CONTROL AND ACCESS MANAGEMENT:

The following access management provisions shall apply to development in all zoning districts.

- A. Intent and Purpose.** The County recognizes the primary function of a highway is to accommodate traffic mobility with a secondary and subservient function to provide access to abutting property. The County, through its police powers as established under Minnesota law, can utilize access control/management techniques to promote public safety while preserving the functional integrity of highways. The intent of this section is to permit reasonable, convenient and suitable access to property(ies) as contemplated within state statutes and applicable case law; under the context of access control standards and access management policies established to: (a) preserve highway capacity, (b) minimize the frequency and severity of vehicular conflicts, (c) maintain effective and reliable mobility of the traveling public, (d) reduce or eliminate opportunities for traffic delays and congestion, and (e) protect the substantial public investment in the existing transportation system and reduce the need for expensive remedial measures.
- B. Statutory Authorization.** Pursuant to Minnesota State Statute §160.02, §160.08 and §160.18 the County Board under the auspices of the statutorily defined road authority has the ability to designate, locate, improve and maintain controlled-access highways for public use as deemed appropriate. Further, the road authority has the ability to design, regulate, restrict or prohibit access pursuant to terms and conditions as specified by the County. As noted in §160.02, this authorization applies to all highways under the County's purview; inclusive of county highways, county state-aid highways and township roads (as applicable).
- C. Scope, Interpretation and Applicability.** The provisions of this section shall apply to any development activity per this Code, which shall include the location and design of public or private roadways and access, in any form (ie. new, changed, modified, altered, re-constructed, etc.), to the county road system. Access legally established as of the effective date of the implementing ordinance may remain until an activity is contemplated as set forth in this sub-section. In addition, access legally established as of the effective date of the implementing ordinance but not in conformance with standards in this ordinance are considered non-conforming and may continue in existence subject to

the regulations as set forth in sub-section (G)(10) of this section.

1. As set forth in 8.5F.3, any plat or Access Permit request filed within the Urban Expansion District (UED) which lies within any city's adopted growth area plan shall conform to the growth area plan and all applicable policies and ordinances of the city; unless the County ordinance is determined (by the County) to be more restrictive. In addition, any other development activity within the UED shall comply with the provisions as established in this Section.
2. For municipalities and/or townships with adopted land development codes, zoning ordinances or access management policies; this section of the County Development Code shall supersede and apply to any development activity contemplated per this Code which requires an Access Permit or Access Plan relative to the county road system; unless the municipality or township standard or regulation is more restrictive as interpreted by the County, or as otherwise specified in this Code. If the municipality or township standard is applied in Access Permit is still required under the provisions of this Code, with issuance prior and/or concurrent with any city/township development application.
 - a. Pursuant to Ordinance No. 200-3 any development activity contemplated under the Barnesville Area Joint Powers Agreement and Zoning Ordinance is not subject to the provisions of this section. However, similar to 8.3.6(C)(2) an Access Permit is still required for any Access Connection onto the county road system to ensure coordination and communication with the County Highway Department. The Access Permit shall be issued prior and/or concurrent with the joint powers development application process.

D. Violations. Any Access Connection to a county roadway constructed or established after the effective date of the implementing ordinance (December 27th, 2012) without an approved Access Permit or in violation of an approved access permit shall be considered illegal. The County Highway Engineer may order discontinuance of its use and may order its removal. The property owner responsible for installing an illegal access shall be responsible for all costs, including any borne by Clay County, associated with, (a) closure of the access; (b) removal of the access; and/or (c) restoration of the ditch or boulevard area to its previous condition.

1. Any person who fails to comply with an order to close and/or remove an illegal Access Connection 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. See County Code §1.4.2 for additional information on violations and general penalties.

E. Access Permit Required. A permit issued by the County Highway Department is required for any Access Connection within a county right-of-way, as further defined in 8.3.6(C) above.

1. **Reconstruction.** Reconstruction of an existing conforming access shall not require payment of any permit fee; however, an updated permit shall be issued.
2. **Application for an Access Permit.** Applications for an Access Permit must be made in writing on a form provided by the Clay County Highway Department. A fee, as established by the Clay County Board of Commissioners, shall accompany the Access Permit application. Where a proposed Access Connection has been approved as part of an Access Plan, no permit fee shall apply.
3. **Review of Access Permits.** An initial determination shall be made on whether the application is complete within three (3) working days of receipt of the completed application form. A final

decision on the Access Permit shall be rendered within thirty (30) calendar days following acceptance of a complete application; and upon determination of consistency with provisions set forth in this Code. At the discretion of the County Highway Engineer, conditions of approval may be attached to the Access Permit. Receipt of an Access Permit from the Clay County Highway Department under this ordinance does not preclude any other permits that may be necessary (ie. watershed district, township, municipality, etc.) prior to access construction or implementation.

4. **Access Plan.** Submittal of an Access Plan is required with any application for a subdivision (§8.7), conditional use permit (§8.4.7) or development permit (§8.4.8) as follows: (a) with frontage on a county road; (b) any request for an Access Connection onto a county highway or public right-of-way; or (c) any request for access to a roadway under the jurisdiction of another governmental unit within one-eighth (1/8) mile of an intersection with a county roadway. The Access Plan shall be processed concurrently with the application with a final recommendation submitted by the County Highway Engineer at the appropriate time for consideration by the governing Board(s) during the review process. The recommendation shall indicate whether the Access Plan is consistent with all provisions and criteria of the County Code or whether modifications or conditions are necessary to establish compliance.
5. **Access Permit and Access Plan Submittal Requirements.** An application for an Access Permit or submittal of an Access Plan shall include the following, at minimum:
 - a. General site plan showing the surrounding area, inclusive of the following:
 - (i) Dimensions of the property (and abutting properties if applicable) and the location of public rights-of-way. At the County Highway Engineer's discretion, this may require detailed survey accurate data or other title/property research that shall be the applicant's responsibility.
 - (ii) The type and intensity of existing and/or any proposed land uses; and proposed lot boundaries for any subdivision of property;
 - (iii) The location of existing and/or proposed streets, driveways, parking areas, field access points, etc.;
 - (iv) The location of, and distance to, public or private access serving adjacent parcels;
 - (v) A phasing plan if the property is planned to be developed in phases;
 - (vi) A traffic impact study, if requested and determined necessary by the County Highway Engineer; and
 - (vii) A signal justification report or warrant analysis, if a traffic signal is proposed or anticipated as a need as part of any application.
 - b. Proof of the appropriate watershed permit for culvert sizing.
6. **Approval Guidelines and Criteria.** In reviewing an Access Permit request and/or an Access Plan the County Highway Engineer shall consider the following to determine whether the permit shall be approved:

- a. Consistency with provisions and guidelines pursuant to Section 8.3.6 of this Code and any other applicable requirements as set forth within the County Code;
 - b. Provides adequate capacity to accommodate the conveyance of drainage within the public right-of-way;
 - c. Adequate intersection sight distance is provided;
 - d. Adequate space is provided between access points to accommodate turn lanes under present or future conditions;
 - e. Design details such as turning radii, driveway slope, angle of entry, width and other specifics are consistent with good engineering design practice.
- F. Construction.** All work completed on an Access Connection shall be consistent with the approved Access Permit and/or Access Plan. Completed work shall be inspected and approved by the County Highway Engineer, or a designated representative, in order to finalize the Access Connection and permit. Requests for final inspections shall be submitted to the County Highway Department in writing.
- 1. Construction Responsibilities.** The applicant shall be responsible for all costs associated with the construction of an Access Connection, including any improvements required to meet any conditions of approval. Improvements may include, but not limited to, the construction of the driveway or intersection, turn lanes, raised medians, traffic control devices (ie. signs, pavement markings, signals, etc.) or other access control measures, connections to other roadways, drainage structures, grading/site restoration and the acquisition or dedication of necessary right-of-way (as identified and determined by the County).
 - 2. Duration of Permit.** If the Access Connection has not been constructed within two (2) years after approval of the Access Permit or Access Plan, the permit shall become null and void unless a request for a time extension to complete the Access Connection has been granted by the County.
 - 3. Performance Guarantee.** An (irrevocable) letter of credit, certified check or bond may be required in an amount to be determined by the County Highway Engineer to insure compliance with the requirements and conditions of an Access Permit and/or Access Plan.
- G. Standards for Access Connection.** The following sub-section defines the key principles and provisions that shall be used to guide decisions relative to Access Connection permitting.
- 1. Access.** As contemplated in MN Statute §160.08 and established under Minnesota case law, [*Hendrickson v. State*, 267 Minn. 436, 446, 127 N.W.2d 165, 173 (1964)] property owners have a right of “reasonably convenient and suitable access” to a public street or highway that abuts their property. Property(ies) are not entitled by right to approval of an Access Connection onto a County roadway or highway as consideration shall be given to access via connections to local streets or via joint or shared access with a parcel that has conforming access.
 - 2. Minimum Spacing (Roadways, Driveways and Intersections) and Access Connection Requirements.** The following table defines minimum spacing requirements for *full* and *limited* Access Connections. A *full* Access Connection is considered as an access that allows all through

and turning movements whereas a *limited* Access Connection does not allow all movements. Generally, although not all inclusive, *limited* Access will include right-in/right-out configurations and/or the elimination of some or all left turn movements.

In addition, the table outlines minimum spacing requirements for driveways (see Driveway definition per §8.8.2). Minimum spacing between an intersection and any Access Connection shall be 500 feet; however, the county Engineer may issue a permit, at his/her discretion, which allows spacing less than the 500 feet if requested and supported by the city and deemed appropriate based on existing and anticipated future conditions.

Road Classification	Spacing Between Roadways		Spacing Between Driveways		
	Full Access	Limited Access	Posted Speed Limit		
			< 35 MPH	35-45 MPH	> 45 MPH
Major Arterial *	n/a	n/a	Not Permitted*	Not Permitted*	Not Permitted*
Minor Arterial *	1320	660	330	660	660
Collector	660	330	160	330	330
Local Road	330	120	50	160	160

*To note, pursuant to Figure 2-18 (County Comprehensive Plan – Clay County Existing Functional Classification) all *Major Arterials* and a majority of the *Minor Arterials* are state facilities and are thereby subject to regulations and guidelines as set forth and administered by the Minnesota Department of Transportation.

- a. For sites or property(ies) with inadequate roadway or ROW frontage to meet the minimum spacing requirements the County Highway Engineer shall work with the applicant to determine the most appropriate access point; which may require, consistent with §8.3.6(G)(1), access via connections to local streets or developed service roads or via joint/shared access with a parcel that has conforming access.
 - b. The County Highway Engineer may grant access approval for a permanent use not meeting the spacing requirements, on an interim basis, if an Access Plan demonstrating how spacing requirements will ultimately be met and appropriate assurances in the form of a recordable and enforceable easement or access agreement insuring future provision of a conforming access are submitted.
3. **Alignment with Existing Access.** On undivided highways, Access Connections on opposing sides of the roadway should be aligned with one another or offset an adequate distance to minimize or eliminate overlapping left turns and other issues that may result in roadway operational problems.
 4. **Auxiliary Lanes.** The County Highway Engineer may require auxiliary lanes (ie. left or right turn bays, bypass lane, acceleration/deceleration lanes, etc.) where deemed necessary due to traffic volumes or other operational issues.
 5. **Access Adjacent to Turn Lanes or Bypass Lanes.** Access Connections shall not be approved

within any auxiliary lane; inclusive of turn lanes, acceleration lanes, deceleration lanes or taper sections. The County Highway Engineer shall have the authority to waive this requirement if no other reasonable or suitable access is available.

6. **Restricted Turn Movements and Limited Access.** In certain circumstances, turning or through movements may be restricted in which only *limited* access is permitted. Outlined below are scenarios which typically warrant consideration to *limited* access:
- a. Where numerous low volume access points exist and the spacing between them does not permit adequate left turn tapers and storage bays for inbound vehicles without blocking adjacent access points;
 - b. At access points close to an intersection where left turn bays would conflict with inbound or outbound left turn movements for an existing or proposed access;
 - c. Where other conditions, such as sight distance, prevent left turn movements from being made safely;
 - d. Where a particular parcel is provided with more than one (1) access point and volumes do not justify left turn access into and/or from both access points;
 - e. When a parcel has access provided by both a signalized access point and an un-signalized access point, left turns may be prohibited at the un-signalized intersection;
 - f. When the median opening for left turn movements would be too close to another median opening;
 - g. When other capacity, delay, operational or safety conditions make specific left turns detrimental to the health, safety and welfare of the public.

Turning movement restrictions shall be enforced with barrier median channelization or driveway channelization, as determined appropriate by the County Highway Engineer.

7. **Indirect Access.** Access to a County roadway may be prohibited when a property abutting a county roadway has frontage on one or more streets and reasonable access can be accommodated on these facilities. The County Engineer shall determine, on a site-specific basis, whether access will be permitted to the County roadway.

When property abutting a County roadway is to be subdivided or developed, direct access to a County roadway shall not be used in lieu of an adequate internal traffic circulation system which itself provides access to the County roadway or another facility. The County Engineer shall determine, on a site-specific basis, which lots abutting the County roadway may have direct access (if any) and which lots shall have indirect access.

8. **Field Access.** Field access or openings that are inconsistent with spacing standards may be permitted by the county Engineer if the field has no other reasonable access. Typically, one (1) field opening to a property under the same ownership or controlling interest may be granted and additional openings shall only be granted if topographical or agricultural activities necessitate. An Access Permit issued for a field opening shall specifically cite any conditions attached to the permit; inclusive of the condition that the opening shall only be granted and valid for specific use, intensity and access purposes. See Field Access/Opening definition within §8.8.2 for additional

information.

9. **Discontinuance of Existing Access Connections.** When a Development activity is pursued which requires an Access Permit and results in the relocation of an existing Access Connection; any existing Access Connection(s) not approved for continuance shall be removed and the land graded and landscaped to conform with adjacent land. In addition, if curb/gutter is present, these improvements shall be installed by the applicant per the standards of the County Highway Engineer.
 10. **Culverts.** Pursuant to MN Statute §160.18, and as acknowledged by Clay County Policy statement adopted by the County Board on November 20th, 2012 (as may be amended from time to time) the County may provide the necessary culvert(s) for access onto a highway for an abutting landowner, upon issuance of an Access Permit consistent with the provisions of this ordinance.
 11. **Dedications and Plats.** Any subdivision plat approved and filed after the effective date of this implementing ordinance shall include dedication language granting access control rights and rights to any access opening(s) to Clay County; as determined appropriate and applicable by the County Highway Engineer.
 12. **Nonconforming Access.** The purpose of this section is to recognize the existence of Access Connections which were lawfully established but do not meet the requirements of this ordinance and to discourage the expansion and/or intensification of such access; and to encourage the elimination of non-conforming accesses or reduce their negative impact on the County roadway system as opportunities arise.
 - a. **Continuation.** Access Connections in place as of the effective date of this ordinance that do not conform with the standards shall be allowed to continue as long as there is no physical change in the access, change in the land use served by the access, intensification of the land use served by the access or any activity contemplated as *development* under this code as set forth in §8.1.6(A)(j). Normal maintenance and repair of the access shall not be considered to be a physical change in the access.
 - b. **Discontinuation.** If the use of a nonconforming access is discontinued for more than one (1) year the access shall not be re-established unless approval of an Access Permit is issued pursuant to this code. If a non-conforming access serves a non-conforming use or structure, the use of which has been discontinued for more than one (1) year, or if a non-conforming use is damaged to an extent exceeding fifty (50) percent of its market value or replacement cost, whichever is less, any subsequent access serving the property shall conform to the provision of this ordinance. For additional information on non-conforming uses and structures, see §8.2.2 of the County *Development Code*.
- H. Modifications and Deviations from Access Standards.** Deviations up to fifteen (15) percent of the minimum spacing standard or 200 feet, whichever is less, may be authorized by the County Highway Engineer where a property is unable to meet the minimum Access Connection standards and where the deviation will not create any safety concerns. The County Highway Engineer shall have the authority to require the applicant to complete a traffic impact study or similar document (as appropriate) to analyze whether the deviation would negatively impact the roadway under existing or future conditions.

- I. Appeal Procedures.** An applicant whose Access Permit, Access Plan or proposed Access Connection is not approved, or is approved with conditions which are not agreeable to the applicant, shall have ten (10) days to appeal the decision in writing, specifically citing the reasons for which an appeal should be approved.
- 1. Process.** Appeals on decisions regarding an Access Permit, Access Plan or proposed Access Connection shall be handled by the Board of Adjustment pursuant to §8.4.4 of this Code and Minnesota Statute §394.27. Any appeal shall be filed by the applicant within ten (10) days of the date of any denial.
 - 2. Criteria for Appeal Approval.** Appeals shall be considered under the criteria set forth within §8.4.4 of this Code and Minnesota Statute §394.27.
- J. County Highway Engineer and Use of the Highway Tracking Committee.** The County Highway Engineer reserves the right to forward any Access Permit or Access Plan to the Highway Tracking Committee for discussion, direction or interpretations relative to this ordinance; although the County Highway Engineer shall still retain final decision making authority. If a permit is forwarded to the Highway Tracking Committee, a ‘final decision’ on the permit is contemplated in §8.3.6(E)(3) shall be extended by thirty (30) calendar days.

8-3-7: MANUFACTURED HOMES:

The following provisions apply to mobile homes in all zoning districts.

- A. Manufactured Home Parks Prohibited:** Manufactured home parks are not permitted in any zoning district within the county.
- B. Single-Family Residence:** Manufactured homes as single-family residences are allowed in all zoning districts that allow single-family residences. Manufactured homes must comply with the applicable sections of this Ordinance dealing with residential uses.
- C. Foundation, Anchoring, and Skirting:** Manufactured homes that meet the provisions of subsection B., above, shall be placed upon a permanent foundation for the entire perimeter of the manufactured home or shall be anchored and skirted to meet the requirements of Minnesota Rules, Chapter 1350.

8-3-8: TREES; TREE PLANTING:

The following tree and tree planting requirements apply in all districts:

- A. Projection Over Public Ways Prohibited:** No person, whether owner or tenant of any property along the streets or roadways of the county, shall permit any trees to project over the sidewalks, streets, and roadways, and twelve feet (12') above streets and roadways.
- B. Responsibility to Trim:** It is the duty of all persons, whether owners or tenants, to keep the trees along public streets and roadways adjoining such property trimmed in such manner that trees shall not interfere with travel on said streets, roadways, and sidewalks.
- C. Road Right of Way; Ditch Back Slope:** No person shall plant any tree, shrub, or other vegetable growth except lawn grass on any road right of way, or within confines of the ditch back slope.
- D. Intersections:** For the purpose of ensuring reasonable visibility at street or roadway intersections, trees shall be trimmed to at least twelve feet (12') above street or roadway surface.
- E. Shelterbelts:** Shelterbelts shall not be planted closer than one hundred twenty-five feet (125') from

center of road.

F. Windbreaks:

1. **North and West:** Farmstead windbreaks, when planted north and west of road, stay one hundred feet (100') away from center of road.
2. **East and South:** Farmstead windbreaks, when planted east and south of road, stay seventy-five feet (75') away from center of road.

G. Hedges: Hedges may be planted seventy feet (70') from the center of road if they do not exceed a height of twenty-four inches (24").

H. Platted Areas: In platted areas, trees and shrubs may be planted no closer than seventy feet (70') from center of road.

8-3-9: HOME OCCUPATIONS, STANDARDS FOR APPROVAL:

The following standards apply to home occupations:

A. Home Occupations within Subdivisions: Home occupations within dwellings in subdivisions are a permitted use if all of the following provisions are met:

1. **Where Located:** The home occupation shall be located wholly within the dwelling and shall be incidental and subordinate to the residential use of the property.
2. **Size Limited:** The area of the dwelling where the home occupation is located shall not exceed twenty-five percent (25%) of the main floor area, but not including basement or garage floor space.
3. **Structural Changes:** Structural changes shall not be made in the dwelling.
4. **Employees:** Employees shall be limited to person(s) residing in the dwelling and immediate family members.
5. **Sign:** One non-illuminated sign only of a maximum size of four (4) square feet and attached to the dwelling is allowed to advertise the home occupation on site. Such sign shall meet the setbacks for structures for the zoning district within which the home occupation is located.
6. **Evidence of Occupation:** Evidence of the occupation such as outdoor storage shall not be visible from the road, except one sign that meets the provisions of subsection 5, immediately above.
7. **Traffic:** No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.
8. **Adverse Effect:** The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.
9. **Septic:** The septic system shall be adequate for the residential and home occupation use combined.

B. Permitted Home Occupations Outside of Subdivisions: Rural Home occupations operated on residential lots not located in platted subdivisions are a permitted use if all of the following provisions are met:

1. **Where Located:** Home occupations operated on residential lots not located in platted subdivisions may be located within the dwelling or in a separate nonresidential or farm building

and shall be incidental and subordinate to the residential use of the property.

2. **Size Limited within Dwelling:** If the home occupation is located within the dwelling, the area of the dwelling where the home occupation is located shall not exceed twenty-five percent (25%) of the main floor area, but not including basement or garage floor space. Structural additions may be made to a dwelling to accommodate a home occupation provided the alterations shall not exceed twenty-five percent (25%) of the main floor of the area of the dwelling, but not including basement or garage floor area.
 3. **Size Limited in Accessory structure:** Any accessory structure principally used for the home occupation shall not exceed twelve hundred (1200) square feet. Home occupations located in accessory structures may result in a split tax classification for the parcel where the structures are located. A commercial property tax rate may apply to home occupations in accessory structures.
 4. **Employees:** Employees shall be limited to person(s) residing in the dwelling, immediate family members and one additional non-family employee.
 5. **Sign:** One non-illuminated sign only of a maximum size of four (4) square feet and attached to the dwelling is allowed to advertise the home occupation on site. Such sign shall meet the setbacks for structures for the zoning district within which the home occupation is located.
 6. **Evidence of Occupation:** Evidence of the occupation such as outdoor storage shall not be visible from the road, except one sign that meets the provisions of subsection 5, immediately above.
 7. **Traffic:** No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.
 8. **Adverse Effect:** The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.
 9. **Septic:** The septic system shall be adequate for the residential and home occupation use combined.
 10. **Parking:** One (1) additional parking space may be provided for the use of clients, deliveries, etc.
- C. **Conditional Home Occupations:** Conditional home occupations not located in subdivisions may exceed the provisions of subsection B, immediately above, if they meet all of the following provisions:
1. **Conditional Use:** Home occupations allowed under this section shall be processed as a conditional use permit meeting the requirements of this section in addition to the general requirements for a conditional use permit. A site plan shall be submitted with the conditional use permit application showing the location of all existing structures and describing the proposed use.
 2. **Review of Permit:** Conditional home occupation uses shall be reviewed and inspected by the planning department at least once every five years for compliance with conditions.
 3. **Where Located:** Conditional home occupations shall be located on lots not located in platted subdivisions. Conditional home occupations may be located within the dwelling or in a separate nonresidential or farm building.
 4. **Size Limited within Dwelling:** If the home occupation is located within the dwelling, the area of the dwelling where the home occupation is located shall not exceed twenty-five percent (25%) of the main floor area, but not including basement or garage floor space. Structural additions may be made to a dwelling to accommodate a home occupation provided the alterations shall not exceed twenty-five percent (25%) of the main floor of the area of the dwelling, but not including

basement or garage floor area.

5. **Size Limited in Accessory structures:** A new accessory structure or structures principally used for the home occupation shall not exceed ten thousand (10,000) square feet in total for all structures thus used. A new accessory structure shall mean any structure built at the time the conditional home occupation permit is applied for or a structure built within the immediately preceding five (5) years. If an existing accessory structure, or combination of structures, is proposed to be used for the home occupation, the structure or structures shall not exceed thirty thousand (30,000) square feet in total for all structures thus used. Existing accessory structures shall have been in existence for a period of more than five (5) years prior to the application for a conditional home occupation. If a combination of new and existing accessory structures is proposed to be used for the home occupation, only one new structure is allowed and shall not exceed ten thousand (10,000) square feet and the existing structures combined with the new structures shall not exceed thirty thousand (30,000) square feet in total. Proposed uses exceeding the size limits in this paragraph shall be located in ASC Agricultural Service Center Districts or other commercial districts because of associated traffic, parking, employee, utility and signage needs. Home occupations located in accessory structures may result in a split tax classification for the parcel where the structures are located. A commercial property tax rate may apply to home occupations in accessory structures.
6. **Minimum Lot Size:** The minimum lot size required for a lot on which a conditional home occupation is permitted shall be eighty thousand (80,000) square feet.
7. **Employees:** Employees shall be limited to person(s) residing in the dwelling, immediate family members and up to five (5) additional non-family employees. The Planning Commission may allow additional employees if traffic, parking, utility and impact on surrounding properties are addressed.
8. **Sign:** One non-illuminated sign only of a maximum size of thirty-two (32) square feet is allowed to advertise the home occupation on site. Such sign shall meet the setbacks for structures for the zoning district within which the home occupation is located.
9. **Traffic and Roads:** Traffic generated by the use shall be considered by the Planning Commission and traffic generated by the home occupation shall not exceed that which is reasonable for the area in which it is located and the road adjacent to the home occupation.
10. **Adverse Effect:** The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.
11. **Performance Standard:** No equipment or processes used in the conditional home occupation shall create noise, vibration, glare, fumes, odors or electrical interference detectable off the premises.
12. **Buffering:** Buffering may be required by the Planning Commission to minimize adverse effects on adjacent properties and roadways.
13. **Utilities:** The home occupation shall not create usage exceeding the capacity of available on-site sewage treatment and drinking water.
14. **Parking:** Additional parking spaces may be required by the Planning Commission for the use of clients, deliveries, etc.

8-3-10: ESSENTIAL SERVICES:

- A. **Permitted:** Essential services extending from the system to serve en route parcels of land abutting a

public right of way or easement are not subject to yard or setback regulations, zoning certificates, other than the approval of the owner.

- B. Buildings and Structures:** Essential services buildings and structures shall not be located less than fifty feet (50') from any lot line. This subsection shall be considered a variance to permit a lot area less than the minimum required for the district in which such building structure is located. In consideration of an application for a conditional use, the Planning Commission shall find:
1. **Landscaping:** That the landscape treatment is in keeping with the neighborhood and provides screening where appropriate.
 2. **Public Hazard Not Created:** That the installation is secure from the public and does not create a potential public hazard.
 3. **Architectural Style:** That the building is of an architectural style in keeping with the neighborhood.
 4. **Access; Parking:** That access and parking is adequately provided.
 5. **Maintenance Program:** That the proposed maintenance program of the building, structure, and grounds is in keeping with the neighborhood.
- C. Transmission Services:** The applicant for such a conditional use shall conform to the following procedures and standards:
1. **Procedure for Transfer:** Essential service such as high voltage (200 KV or less) electrical power or bulk gas or fuel being transferred from station to station and not intended for en route consumption nor located within highway and street rights of way shall follow the following procedure:
 - a. **Filing of Maps:** The owner shall file with the Zoning Administrator such maps indicating the location, alignment, and type of service proposed as shall be requested.
 - b. **Public Hearing:** The Planning Commission shall hold a public hearing.
 2. **Ordinary Service Extensions:** It is not intended that the Zoning Administrator shall request maps or filings for ordinary service extensions which would delay by virtue of such filings or town board considerations the services public utilities must immediately provide to customers.
- D. Existing Lines or Facilities; Reconstruction, Relocation:**
1. **Permit Required:** No filing or application shall be necessary under this Section to maintain, reconstruct or relocate existing lines or facilities where the general line and conformation thereof remains essentially the same unless said construction is within the traveled roadway. In such case, the permit shall be obtained from the Zoning Administrator.
 2. **Emergency Work:** Emergency work otherwise requiring a filing or application shall be accomplished provided such filing or application is made as soon thereafter as possible.
- E. Location; Construction:** Essential services shall be located and constructed at such places and in such manner that they will not segment land of any one farm, and will not interfere with the conduct of agriculture by limiting or interfering with the access to fields or the effectiveness and efficiency of the farmer and farm equipment including crop spraying aircraft.

8-3-11: FLOODPROOFING MEASURES:

A. General Flood Plain District:

1. **Regulations Adopted:** Permitted and conditional uses proposed for the General Flood Plain District that incorporate floodproofing techniques must comply with sections 209 through 1406 of the 1972 Edition, and any amendments thereto, of "Floodproofing Regulations" (FPR), as developed by the office of the Chief of Engineers, U.S. Army, Washington D.C., a copy of which is hereby incorporated by reference and declared to be part of this Ordinance.
2. **Definitions:** Where definition of terms as set forth in section 301 of FPR conflict in meaning with the definition of terms as set forth in this Ordinance, the latter shall prevail.
3. **Conditions Attached to Permit:** Appropriate conditions may be attached to the granting of a conditional use permit, including, but not limited to, the following:
 - a. **Design:** Floodproofing measures shall be designed in a manner consistent with the flood protection elevation of the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood.
 - b. **Submission of Plan:** The applicant shall submit a plan certified by a registered engineer stating that the floodproofing measures are consistent with the regulatory flood protection and associated factors.
 - c. **Required Measures:** The following floodproofing measures may be required without limitation:
 - (1) **Anchoring:** Anchorage to resist flotation and lateral movement.
 - (2) **Doors; Bulkheads:** Installation of watertight doors, bulkheads or similar methods of construction.
 - (3) **Reinforcement of Walls:** Reinforcement of walls to resist water pressure.
 - (4) **Reduction of Seepage:** The use of paints, membranes, or mortar to reduce the seepage of water through walls.
 - (5) **Water Supply, Waste Treatment Systems:** The construction of water supply and waste treatment systems which will prevent the entrance of flood waters.
 - (6) **Flotation Reduction:** The addition of mass or weight to structures to reduce flotation.
 - (7) **Pumps:** The installation of pumps to lower water levels in structures.
 - (8) **Subsurface Drainage Systems:** The installation of pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation, wall, and basement floor pressures.
 - (9) **Electrical Equipment:** The location of all electrical equipment, circuits, and installed appliances in a manner which will ensure they are not subject to flooding and to provide protection from inundation by the regional flood.
 - (10) **Storage of Toxic, Hazardous Materials:** The location of all structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare above the flood protection elevation or the provision of adequate floodproofing to prevent flotation of storage containers which could result in the escape of toxic materials into flood waters.

8-3-12: GENERAL PARKING REQUIREMENTS:

All parking hereafter constructed shall conform to the provisions of this Ordinance and meet the

regulations of the district in which they are applied.

- A. Minimum Size Requirements:** The following requirements shall be considered to be the minimum requirements per parking space:
 - 1. **Area:** Three hundred (300) square feet (including access drive).
 - 2. **Width:** Ten feet (10').
 - 3. **Depth:** Twenty feet (20').
- B. Reduction and Use of Parking Space:** On-site parking facilities existing at the effective date hereof shall not subsequently be reduced to less than the minimum requirements of this Section. Required parking spaces shall not be used for storage of goods or storage of vehicles which are inoperable.
- C. Computing Requirements:**
 - 1. **Floor Space:** Floor space shall mean gross floor area of the specific use.
 - 2. **Parking Space Requirements:** Parking space requirements for a use not specifically mentioned herein shall be the same as required for a similar use and as determined appropriate by the County Planning Commission.
- D. Yards:** Parking areas shall be subject to front yard requirements in accordance with the district in which such parking area is located.
- E. Design, Maintenance of Commercial or Industrial Parking Areas:**
 - 1. **Lighting:** Any lighting used to illuminate an off-street parking area shall be reflected away from public right of way, adjacent residences or agricultural land.
 - 2. **Design:** All off-street parking areas shall be designed so that no part of any vehicle parked therein shall be nearer than fifteen feet (15') from the property line.
 - 3. **Screen; Fence:** On-site parking or loading areas abutting residential districts or within fifty feet (50') of residential structures shall be screened or fenced. Such fencing shall be included as part of the site plan.
 - 4. **Access Drives:** The number and width of access drives shall be located so as to minimize traffic congestion and traffic hazard.
 - 5. **Surfacing; Drainage:** The surfacing and drainage of parking areas accommodating more than four (4) vehicles shall meet the requirements of the County Engineer.
- F. Required Site Plan:** Any application for a development permit shall include a site plan showing on-site parking and loading requirements as stated in this Ordinance.
- G. Required Number of On-Site Parking Spaces:** The minimum number of on-site parking spaces for the following uses shall be as follows:

<u>Type</u>	<u>Parking Spaces</u>	<u>Unit of Measure/ Gross Area</u>
Residential dwelling units	2	Unit
Offices	1	500 square feet
Automotive, trailer or marine sales and service	1	500 square feet
Drive-in eating establishments	20 + 1	500 square feet

Public or religious assemblies	1	4 seats
Automotive service stations	4 + 2 for each	Service bay
Public and private health clubs	20 + 1 for each	500 square feet (main building)
Commercial recreation areas	20 + 1 for each	500 square feet
Motels and hotels	1	Rental sleeping unit
Restaurants, cafes or nightclubs	1	75 square feet customer area
Retail sales and service establishments	1	100 square feet customer area
Storage, wholesale and warehousing		The greater of 1 space per each 2 employees in a shift or 1 space per each 2,000 square feet

1. **Company Vehicles:** In addition to the above requirements, company vehicles normally kept on the premises shall be provided an additional space.
2. **Loading/Unloading Areas:** Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirements of each use.
3. **Single Car Garage and Driveway:** A single car garage and driveway shall be considered two (2) parking spaces for single- family residential uses.

8-3-13: SIGNS:

All signs hereinafter erected, altered, substantially repaired, relocated and maintained in Clay County, except official traffic and road or street signs, shall conform to the following provisions:

- A. **Permit Required:** No sign shall be erected unless the owner of the land on which the sign will be placed obtains a sign permit.
- B. **Billboards Prohibited:** Off-premise signs, more commonly known as billboards, shall be prohibited.
- C. **Sign Types – Where Allowed:** Wall signs and monument signs are allowed in any zoning district. Pylon signs are allowed only in the HC and LHC districts.
- D. **Number Per Lot:** A maximum of one (1) large sign, or two (2) small signs that combined do not exceed the maximum size per lot as specified in subsection E.2., below, shall be permitted in all districts except HC and LHC Districts. In HC and LHC Districts a maximum of one (1) sign not exceeding the maximum size as specified in subsection E.1., below, per frontage is allowed.
- E. **Maximum Size:** The maximum size of a permitted sign is as follows:
 1. **Commercial Districts:** In the HC and LHC districts, maximum size is one hundred and twenty-eight (128) square feet for each of two allowed sign faces, or for wall signs, five percent (5%) of the area of the building wall on which the sign is located.
 2. **Residential Uses and Home Occupations:** In all zoning districts the maximum size of a permitted sign is as follows:

- a. For residential uses and permitted home occupations, four (4) square feet for each of two allowed sign faces.
 - b. For conditional home occupations, thirty-two (32) square feet for each of two allowed sign faces.
3. **Two Faces:** If two sign faces are proposed, they shall be touching on one vertical side and shall be at an angle of no greater than ninety (90) degrees to one another.
- F. **Maximum Height:** Monument signs shall not exceed twelve (12) feet in height above the average grade at the base of the sign. No part of a pylon sign shall exceed thirty (30) feet in height above the average grade at the base of the sign. No building-mounted sign shall extend above the roof of the building. Ground mounted signs are encouraged instead of building-mounted or pylon signs.
- G. **Illumination:** Signs for residential uses and home occupations shall not be illuminated. If a permitted sign in a commercial district is externally illuminated, the illumination shall be directed only on to the sign and the light source shall not be visible from neighboring properties.
- H. **Safe Condition:** All signs shall be maintained in a safe condition. No sign shall be permitted that shall in any way endanger the health or safety of the general public.
- I. **Clean Area:** All areas surrounding a permitted sign shall be kept free from unreasonable growth, debris or rubbish. Failure to correct such conditions after being so directed in writing by the Zoning Administrator shall be cause for revocation of the existing sign permit and removal of the sign.
- J. **Temporary Signs:** Signs of a temporary nature that do not exceed twelve (12) square feet in area shall be exempt from the permitting requirement. Temporary signs may be displayed for a period not to exceed thirty (30) days, on a maximum of two (2) occasions per year.
- K. **Removal for Roadway Construction:** Signs shall be removed by the sign owner at no expense or claim of damage to any governmental unit, if necessary for the construction, reconstruction or relocation of any public roadway.
- L. **Limits on Location:** The following limits on location shall apply to all signs, permitted and temporary:
1. **Setbacks:** All signs shall conform to the yard setbacks for structures for the zoning district within which the sign is located.
 2. **Road Right of Way:** No sign except as erected by an official unit of government for the direction of traffic or necessary public information shall be permitted within the right-of-way of any public road.

8-3-14: STORAGE OF MANURE:

Animal waste produced by an animal feedlot or stable facility shall not be stored within three hundred feet (300') of edge of a drainage ditch, wetland or public water.

8-3-15 PROVISIONS FOR KEEPING ANIMALS ON RESIDENTIAL PARCELS:

- A. **Residential Parcel:** a parcel of land that meets the criteria set forth either in Minnesota Statute 273.13, as amended, or by the Clay County Assessor for classification as “residential” (Class 1) for property taxation purposes. This definition does not apply to parcels in legally platted subdivisions.

- B. Animals on Residential Parcels:** The keeping of chickens, ducks, geese, turkeys or other domestic fowl and/or cattle, horses, pigs, goats, sheep or other domestic livestock on residential parcels shall conform to the following provisions:
1. **Minimum Parcel Size:** None of the aforementioned animals shall be kept on a parcel smaller than two (2) acres in size.
 2. **Useable Area:** Useable area is calculated by subtracting one (1) acre from the parcel's total acreage. The number of whole acres remaining after subtracting one (1) acre is considered the "Useable Area".
 3. **Number of Animals Allowed Per Parcel:** A maximum of one (1) animal unit per fenced acre of useable area is allowed.
 4. **Fences:** Fences confining animals shall be located at least ten (10) feet from adjoining property lines.
 5. **All manure generated by animals on the property shall be disposed of in an appropriate manner approved by the Clay County Planning Office.**
 6. **The Clay County animal unit definitions shall be used to determine the actual number of animals that constitute one (1) animal unit.**

**CHAPTER 4
ADMINISTRATION AND ENFORCEMENT**

- 8-4-1: ADMINISTRATIVE OFFICERS**
- 8-4-2: BOARD OF COUNTY COMMISSIONERS**
- 8-4-3: PLANNING COMMISSION**
- 8-4-4: BOARD OF ADJUSTMENT**
- 8-4-5: VARIANCES**
- 8-4-6: AMENDMENTS**
- 8-4-7: CONDITIONAL USE PERMITS**
- 8-4-8: DEVELOPMENT PERMITS AND APPLICATIONS**
- 8-4-9: VIOLATION, PENALTIES AND ENFORCEMENT**

8-4-1: ADMINISTRATIVE OFFICERS:

- A. Zoning Administrator, Planning Director:** The title of Zoning Administrator and Planning Director as used in this Ordinance shall refer to the Director of the Clay County Planning and Zoning Department or a staff person delegated such duties by the Director.
- B. Duties of Director of Planning and Zoning:**
 - 1. Duties:** The duties of the Director of the Clay County Planning and Zoning Department shall include, but are not limited to, the following specific duties or any duties so delegated by the County Board. The Director may delegate these duties to a Zoning Administrator or other staff:
 - a. Coordination of Activities:** Coordination of all codes administration and planning activities as authorized by this Ordinance.
 - b. Review Applications:** Review applications for and issue development permits and maintain records thereof, including the recording of the elevation of the first floor (including basement) and the elevation at which structures are floodproofed for construction of new or additions to existing structures located in Flood Plain Districts.
 - c. Inspections:** Conduct necessary inspections of buildings and uses of land to determine compliance with the provisions of this Ordinance.
 - d. Public Information Bureau:** Provide and maintain a public information bureau relative to matters of this Ordinance and the County Land Use Plan.
 - e. Advisor:** Act as official advisor to the County Board of Commissioners, Planning Commission and Board of Adjustment on matters originating from administration of this Ordinance.
 - f. Zoning Certificates:** Review applications and issue all zoning certificates.
 - g. Conditional Use Permits; Subdivision Review:** Review applications and issue all conditional use permits and applications for subdivision review.
 - h. Additional Duties:** Perform all duties in addition to those listed herein that may be necessary for the proper administration of this Ordinance.
- C. Appeals of Administrative Decisions:** Administrative decisions of the Planning Director or Zoning Administrator that are not reviewed by the Planning Commission, County Board or Board of Adjustment, including but not limited to the issuance of sewage disposal permits and zoning

certificates, shall be considered final administrative decisions. Such final administrative decisions may be appealed to the Board of Adjustment by the applicant within thirty (30) calendar days of the date of any denial by filing with the Board of Adjustment a notice of appeal specifying the grounds of the appeal.

8-4-2: BOARD OF COUNTY COMMISSIONERS:

The Clay County Board of County Commissioners shall have jurisdiction in all matters permitted by law and shall have the specific and general powers provided in this Ordinance as follows:

- A. Provide Enforcement and Administration:** The County Board shall provide for the enforcement and administration of this Ordinance by creating a Planning Commission and Board of Adjustment with appropriate duties and responsibilities and to impose enforcement duties of any officer, department, agency or employee of the County.
- B. Public Hearings:** The County Board shall assign responsibility to conduct public hearings to the Planning Commission, Board of Adjustment or any official or employee of the County, except as provided in Minnesota Statutes Annotated section 375.51, for the purpose of administration of this Ordinance.
- C. Zoning Amendments:** The County Board shall have the power to initiate, consider, adopt or reject proposed zoning district or text amendments or repeal of this Ordinance. County Board decisions on zoning district or text amendments shall constitute final decisions and as such may be appealed to the District Court.
- D. Subdivision Plats:** To consider, approve, approve with conditions or disapprove any plats forwarded by the Planning Commission. County Board decisions on plats shall constitute final decisions and as such may be appealed to the District Court.

8-4-3: PLANNING COMMISSION:

A. Creation; Membership:

- 1. Established:** The County Board of Commissioners hereby establishes the County Planning Commission.
- 2. Membership:** Membership shall be determined according to Minnesota Statutes Annotated section 394.30, as amended.
- 3. Term:** Each member shall be appointed to serve a three (3) year term of office. No one member shall serve more than three (3) consecutive three (3) year terms on the Planning Commission. Appointments of less than three (3) years may be made to fill vacancies for unexpired terms.

B. Powers and Duties: The Planning Commission shall have the following powers and duties:

- 1. Planning and Zoning:** The Planning Commission shall have the authority to cooperate with employees of the County in preparing and recommending to the County Board the adoption of comprehensive plans, recommendations for official controls and other measures and amendments thereto.
- 2. Conditional Use Permits:** The Planning Commission shall have the authority to hear and decide on all applications for conditional use permits. Planning Commission decisions on conditional use permits may be appealed within thirty (30) calendar days of decision to the County Board by filing with the County Board a notice of appeal specifying the grounds of the appeal. County

Board decisions on conditional use permits appeals from Planning Commission are considered final decisions and may be appealed to the District Court.

3. **Subdivisions; Amendments:** The Planning Commission shall have the authority to review and make recommendation to the County Board on subdivision plats and amendments to this Ordinance.
4. **Temporary Uses:** The Planning Commission shall have the power to allow the temporary use of a building or premises in any district for a purpose or use that does not conform to the conditions prescribed by this Ordinance; provided, that such use be of a truly temporary nature and does not involve the erection of substantial buildings or a use existing for a period of more than three (3) months.

8-4-4: BOARD OF ADJUSTMENT:

A. Creation; Membership; Authority:

1. **Established:** A Board of Adjustment is hereby established and vested with such authority as provided by Minnesota Statutes Annotated section 394.27, as amended.
2. **Membership; Term:** The Board of Adjustment shall be comprised of five (5) members, each appointed to serve a three (3) year term of office. No one member shall serve more than three (3) consecutive three (3) year terms on the Board of Adjustment. Appointments of less than three (3) years may be made to fill vacancies for unexpired terms.
3. **Authority:** The Board of Adjustment shall have the authority to hear and decide on all variance applications. All appeals shall be in accordance with the procedures and standards of Minnesota Statutes Annotated section 394.27, and the additional procedures as prescribed in subsection C of this Section.
4. **Conveyance Agreements in Agricultural District:** The Board of Adjustment shall hold public meetings to make decisions regarding the conveyance of rights for development of residential property when ownership within a quarter-quarter proposed for development lies with more than one property owner. Approval of such conveyance agreements must be made by the Board of Adjustment prior to the initiation of any other land division review procedures.
5. **Appeals of Administrative Decisions:** The Board of Adjustment shall have the authority to hear and decide on appeals of final administrative decisions of the Planning Director or Zoning Administrator that are not reviewed by the Planning Commission, County Board or Board of Adjustment. Such final administrative decisions may be appealed to the Board of Adjustment by the applicant within ten (10) days of the date of any denial by filing with the Board of Adjustment a notice of appeal specifying the grounds of the appeal.

8-4-5: VARIANCES:

- A. **Power to Authorize:** The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances provided for in Minnesota Statutes Annotated chapter 394.
- B. **Finding Require Specific Conditions:** In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that exist consistent with the criteria specified in Minnesota Statutes Annotated Section 394.27 which justify the granting of the variance.

- C. Compliance with Statute:** The Board of Adjustment shall not grant a variance unless it finds at a public hearing that the standards of Minnesota Statutes Annotated section 394.27, subsection 7 have been met.
- D. Criteria for granting variances.** All of the following criteria must be met before a variance may be granted:
- 1. Intent of Ordinance:** The variance is in harmony with the general purposes and intent of this Ordinance.
 - 2. Consistent with Comprehensive Plan:** The variance is consistent with the Clay County Comprehensive Land Use Plan.
 - 3. Practical Difficulty:** A variance may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the strict letter of this Ordinance. Practical difficulties," as used in connection with the granting of a variance, mean the property owner proposes to use the property in a reasonable manner not permitted by an official control; 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 do not constitute practical difficulties. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls.
 - 4. Extraordinary Circumstances:** Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property have had no control or influence.
 - 5. Literal Interpretation Unfair:** The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 - 6. Minimum Variance Necessary:** The variance granted shall be the minimum variance that would alleviate the practical difficulty.
 - 7. Prohibited Variances:** No variance shall be granted where any of the following conditions are present:
 - a. Adequate sewage treatment systems or water supply capabilities cannot be provided;
 - b. The plight of the landowner or hardship is due to circumstances created by the landowner;
 - c. The variance would allow a use that is not allowed in that zoning district;
 - d. The variance would result in a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection;
 - e. The essential character of the locality would be altered or there would be a significant adverse effect on the surrounding properties;
 - f. There would be a significant adverse effect on the public health or safety; or
 - g. No variance shall confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.
- E. Conditions:** Conditions may be imposed in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

F. Shoreland Districts: For existing developments within the shoreland districts, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, as issued, must require reconstruction of a nonconforming sewage treatment system.

G. Flood Hazard Zones:

- 1 **Regulatory Flood Protection Elevation:** No variance shall have the effect of allowing in any district uses prohibited in that 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.
- 2 **FEMA Variance Criteria:** The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - a. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - b. Variances shall only be issued by a community upon:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 3 **Flood Insurance Notice and Record Keeping:** The Zoning Administrator shall notify the applicant for a variance that:
 - a. **Increased Costs:** 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 twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
 - b. **Risks:** Such construction below the 100-year or regional flood level increases risks to life and property.
 - c. **Record of Variances in Floodplains:** Such notification shall be maintained with a record of all variance actions. The County 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.
- 4 **Variance Notification:**
 - a. **Hearing.** The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive notice at least ten (10) days prior to the hearing.
 - b. **Decisions.** A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

8-4-6: AMENDMENTS:

A. Initiation: Proceedings for amendment shall be initiated by:

1. A petition of the owner or owners of the actual property;
2. A recommendation of the Planning Commission; or
3. Action of the Board of County Commissioners.

B. Application and Filing:

1. **Time of Filing:** All applications shall be filed at least thirty (30) days prior to the public hearing.
2. **Required Information, Text Amendment:** The following information shall be required to accompany an application for a text amendment of this Ordinance:
 - a. Stated reason for requested change;
 - b. Text of the Ordinance provision to be amended;
 - c. Additional information requested by the Planning Commission.
3. **Required Information, Rezone or Change in District Boundary:** The following information shall be required for a rezoning or change in district boundary:
 - a. Names and addresses of the petitioner and their signatures on the petition;
 - b. A legal description of the property to be rezoned, the names and addresses of all owners in the area, and a description of the property owned by each;
 - c. A site plan showing existing or proposed buildings, uses of land and structures of the property to be rezoned and all lands within five hundred feet (500') of the property in incorporated areas and one-half (1/2) mile in unincorporated areas together with the names and addresses of the owners of the land in such areas;
 - d. The present district classification of the area and proposed classification;
 - e. Additional information as may be requested by the Planning Commission.

C. Authorization:

1. **Filing with County Board; Official Date of Application:** Following the closing of the public hearing, the Planning Commission shall request the Planning Director to report its findings and recommendation to the County Board. The Planning Commission shall file the application with the County Board within sixty (60) days of application submission. For the purpose of this provision, the date of the first regularly scheduled meeting of the Planning Commission at which any amendments shall be heard shall be considered the official date of the application.
2. **Absence of Report:** If no report is transmitted by the Planning Commission within sixty (60) days after the hearing, the Board of County Commissioners may take action without awaiting a recommendation.
3. **Time Limitation:** The Board of County Commissioners shall take action on the proposed amendment within sixty (60) days following the receipt of the recommendations by the Planning Commission.
4. **Public Hearings; Board Action:** In considering the amendment, the County Board may hold such public hearings as it deems necessary. After conclusion of the hearings, if any, the County Board may adopt the amendment or any part thereof in such form as it deems necessary to carry

out the intent of this Ordinance. Action for approval by the Board shall be not less than a four-fifths (4/5) vote of its members. The person making application for amendment shall be notified in writing of the Board's action.

5. **Flood Plain District Amendments:** Amendments to the flood plain districts shall not be made unless it has been demonstrated that designations have been made in error or that the area in question has been filled to or above the regulatory flood protection elevation and is contiguous to land outside the flood plain. Special exceptions can be permitted by the Commissioner of Natural Resources if it is determined that, through other measures, lands are adequately protected for the intended use.
6. **Approval of Commissioner of Natural Resources:** Amendments to the flood plain provisions of this Ordinance, including the Flood Plain District Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Flood Plain District Map changes must also receive prior approval by the Federal Emergency Management Agency. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.
7. **Denial; Resubmission:** In the event the request for amendment is denied by the Board of County Commissioners, no further request for the same district change in the same property shall be considered for at least one year.

D. Criteria and General Review Standards for Granting Zoning District Amendments:

1. **Effect of Proposed Use:** In granting a zoning district amendment, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions on adjacent streets and land, and the effect on agricultural usage in the surrounding area.
2. **Additional Findings:** In addition, the Planning Commission shall make the following findings, among others, where applicable:
 - a. **Burden on Public Utilities:** The development authorized by the rezoning will not create an excessive burden on any public facilities or utilities which serve or are proposed to serve the area.
 - b. **Related to Overall Needs:** The rezoning is reasonably related to the overall needs of the County and to the existing land use.
 - c. **Consistency with Ordinance:** The rezoning is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant seeks classification.
 - d. **Conflict with Comprehensive Plan:** The rezoning is not in conflict with the comprehensive plans of any township or city of the County or the County Land Use Plan.
 - e. **Prematurely Stimulate Public Investment in Utilities:** The rezoning will not either individually or cumulatively stimulate prematurely, public investment in the facilities and utilities described in subsection D.2.a. of this Section.

8-4-7: CONDITIONAL USE PERMITS:

- A. **Application:** An application for a conditional use permit shall be filed with the Planning Director thirty (30) days prior to the regularly scheduled meeting of the Planning Commission.

- B. Notice to Commission or Natural Resources:** The Commissioner of Natural Resources shall receive at least ten (10) days' notice of hearings for conditional uses for flood plain or shoreland areas.
- C. Findings and General Review Standards:** No conditional use permit shall be approved by the Planning Commission unless the following general standards have been considered and written findings have been made:
1. **Effect of Use:** In granting a conditional use, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated land uses, traffic conditions including parking facilities on adjacent streets and land, and the effect on agricultural usage and values of property and scenic views in the surrounding areas, and the effect of the proposed use on existing comprehensive plans.
 2. **Use and Enjoyment of Other Property:** The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and not substantially diminish or impair property values within the immediate vicinity.
 3. **Development of Surrounding Property:** The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 4. **Utilities, Access Roads, Drainage, Off-Street Parking and Loading Spaces:** Adequate measures have been or will be taken to provide utilities, access roads, drainage and off-street parking and loading spaces.
 5. **Nuisance Conditions:** Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, water pollution and soil erosion, so that none of these will constitute a nuisance, and to control lighted signs or other lights in such manner that no disturbance to neighboring properties will result.
 6. **Burden on Current and Anticipated Public Services:** The use will not create an excessive burden on current or anticipated parks, schools, public safety services, streets, water supply, sanitary sewers and storm sewers and other public facilities or utilities which serve or are proposed to serve the area.
 7. **Compatibility:** The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to agricultural use of said land.
 8. **Appearance of Structure and Site:** The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
 9. **Relationship to Overall Needs:** The use is, in the opinion of the Planning Commission, reasonably related to the overall needs of the district and to the existing land use. In the case of flood plain areas, the proof that the location is necessary for facility operation and that alternative sites not susceptible to flooding are not available.
 10. **Consistency with Ordinance:** The use is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 11. **Conflict with Comprehensive Plans:** The use is not in conflict with the comprehensive plan, if any, of the township or city or County.
 12. **Traffic Hazards, Congestion in Flood Plain Areas:** The use will not cause traffic hazards or

congestion and in flood plain areas has access during flooding for ordinary and emergency vehicles.

13. **Existing Businesses:** Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.

D. Authorization and Conditions for Authorization:

1. Action by Planning Commission:

- a. **Time Limitation:** Following the closing of the public hearing, the Planning Commission shall take action on the conditional use permit application within sixty (60) days.
- b. **Official Submission Date:** For the purpose of this provision, the date of the public hearing shall constitute the official submission date.
- c. **Forwarding to Commissioner of Natural Resources:** Copies of all decisions granting conditional use permits in flood plain or shoreland areas shall be forwarded to the Commissioner of Natural Resources within ten (10) days of that decision.

2. **General Conditions and Requirements:** In permitting a new conditional use, or the alteration of a conditional use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which they consider necessary to protect the best interest of the surrounding area and County as a whole. These conditions may include, but are not limited to, the following:

- a. Increase the required lot size or yard dimension.
- b. Limiting the height, size or location of buildings.
- c. Controlling the location and number of vehicle access points.
- d. Increasing the street width.
- e. Increasing the number of required off-street parking spaces.
- f. Limiting the number, size, location or lighting of signs.
- g. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- h. Designating sites for open space.

3. **Specific Conditions:** Additional development conditions and requirements for specific conditional uses in Article __ of this Ordinance shall be met in addition to the general review standards in this section.

E. Standards for Shoreland Conditional Uses: Conditional uses in shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established communitywide. A thorough evaluation of the water body and the topographic, vegetation, and soils condition on the site must be made to ensure:

1. **Susceptibility to Flood Damage:** That the facility, its contents, and its water supply and sanitary system are not susceptible to flood damage and during flooding will not contribute to the creation of disease, contamination, and other unsanitary conditions.
2. **Increased Flood Heights or Velocities:** Life and property will not be endangered due to increased flood heights or velocities caused by encroachment into the floodway.

3. **Dangerous Materials:** During flooding dangerous materials will not be swept downstream and cause injury to others.
 4. **Soil Erosion:** The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 5. **Visibility of Structures:** The visibility of structures and other facilities as viewed from public waters is limited;
 6. **Water Supply; Sewage Treatment:** The site is adequate for water supply and on-site sewage treatment; and
 7. **Watercraft:** 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.
- F. **Conditions Attached to Conditional Use Permits in Shoreland Areas:** The Planning Commission, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
1. **Setbacks:** Increased setbacks from the ordinary high water level;
 2. **Vegetation:** Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 3. **Special Provisions:** Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- G. *Reserved for future use*
- H. *Reserved for future use*
- I. **Conditional Use Procedures for All Flood Plain Zoning Districts:**
1. **Information Required:** Require the applicant to furnish such of the following information and additional information as deemed necessary by the County Planning Commission for determining the suitability of the particular site for the proposed use:
 - a. **Plans:** Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation 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.
 - b. **Specifications:** Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
 - c. **Transmittal to Engineer:** Transmit one copy of the information described in subsection I. 1. a. of this Section 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.
 - d. **Determination of Flood Hazard:** Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
 2. **Considerations:** In passing upon conditional use applications, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance; and:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. 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.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- e. The importance of the services provided by the proposed facility to the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- l. Such other factors which are relevant to the purposes of this Ordinance.

3. Conditions Attached in Flood Plain Districts:

- a. **Duty to Prescribe:** In granting a conditional use permit the County Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified below, which are in conformity with the purposes of this Ordinance. 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 Ordinance punishable under Section 8-4-9 of this Chapter. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- b. **Conditions Applied:** Conditions applied to a permit may include, but are not limited to, the following:
 - (1) Modification of waste 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 and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

8-4-8: DEVELOPMENT PERMITS AND APPLICATIONS:

A. General Requirements:

- 1. Permit Required Prior to Development:** It shall be unlawful for any person to commence development without first obtaining a development permit.
- 2. Subdivision Approval:** No subdivision plat shall be approved unless all lots of said subdivision abut a public right of way or have deeded access to a public right of way.
- 3. Compliance Required:** Before a permit is issued, the terms of all County ordinances shall be met.

B. Application: Application for a permit shall be made to the administrative officer or other designated official on the forms provided. The application shall include the necessary information so that the administrative officer or designated official can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

- 1. Information Required; Issuance:** Applications for any kind of development permit shall contain such information as may be deemed necessary for proper enforcement of this Ordinance. Development permits shall be issued only after determining that the application, building plans or plats comply with the terms of this Ordinance.
- 2. Certification of Building Elevations:** In flood plain districts, the applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Code. Floodproofing measures shall be certified by a registered professional engineer or registered architect.
- 3. Record of Elevations:** In flood plain districts, the Zoning Administrator shall maintain a record of the elevation of the first floor (including basement) of all structures or additions to existing structures. The Zoning Administrator shall also maintain a record of the elevations to which structures or additions to structures are floodproofed.

C. Permits from Other Agencies: All proposed development will be reviewed by the Zoning Administrator to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

D. Staff Review: Within ten (10) working days, the Zoning Administrator must take action to either approve, reject or refer to the appropriate County authority any application for construction of any building or the use of any land or building.

E. Unapproved Use, Arrangement or Construction Prohibited: Development permits issued on the basis of approved plans and applications, or as written order shall authorize only the use, arrangement of lots or buildings and construction set forth in such approval plans and applications and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized or required shall be deemed a violation of this Ordinance.

F. Involuntary Loss: In cases of involuntary loss through catastrophe, such as fire, wind, etc., no fee shall be charged in these instances for a permit to redevelop.

G. Final Inspection: The holder of every development permit involving construction shall notify the Zoning Administrator immediately upon completion of work authorized by such permit for a final inspection.

H. Term of Permit: If the start of construction of any development described in a development permit

has not begun within six (6) months from the date of issuance thereof, said permit shall expire. If the construction described in any development permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be cancelled by the administrative officer. Written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new permit has been obtained.

- I. **Failure to Obtain Permit:** Failure to obtain a development permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 8-5-8 of this Chapter.
- J. **Violation:** Any use, arrangement, construction or occupancy different than that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 8-5-8 of this Chapter.
- K. **Specific Permits Required:**
 - 1. **Construction of Buildings or Additions:** A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Sections 8-3B-10 through 8-3B-12 of this Ordinance.
 - 2. **Nonconforming Sewage Treatment System:** A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 8-3B-19 of this Ordinance, shall be reconstructed or replaced in accordance with the provisions of this Ordinance.
- L. **Certificate of Zoning Compliance:** In Flood Hazard Zone and shoreland districts it shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof 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 stating that the use of the building or land conforms to the requirements of this Ordinance. Where a nonconforming use or structure is extended or substantially altered, the certificate of zoning compliance shall specifically state the manner in which the nonconforming structure differs from the provisions of this Ordinance.
- M. **Certificate of Occupancy:** A copy of certificates of occupancy shall be filed with the Department of Natural Resources for their records.
- N. **Permits in Flood Hazard Zones:** A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be obtained prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood hazard zone.
- O. **Notification for Watercourse Alterations:** The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

P. Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood

Elevation: As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

8-4-9: VIOLATION, PENALTIES AND ENFORCEMENT:

A. Violation; Penalty: Any person who violates the provisions of this Ordinance, fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, or makes any false statement in any document required to be submitted under the provisions thereof shall be guilty of a misdemeanor and shall be punished as defined by law.

B. After the Fact Permits:

Any person making application for a permit after the commencement of work requiring a permit, shall be charged an additional administrative fee as established by resolution of the County Board. In the event the application for a permit is denied or the action permitted does not include all or part of the work commenced prior to approval of said permit, the review and approval body shall require correction and/or restoration of the concerned property to its original state, including removal of structures or improvements.

C. Enforcement:

1. **Administrative Officer:** The Zoning Administrator, Planning Director or other appointed official is responsible for the administration and enforcement of this Ordinance.
2. **Additional Actions or Proceedings:** In the event of a violation or threatened violation of this Ordinance, the administrative officer, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.
3. **Suspected Ordinance Violation:** In responding to a suspected ordinance violation, the Zoning Administrator and 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. After the fact permits are permits applied for after construction or use has been initiated. The County 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.
4. **Discovery of Violation:** When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As required and as soon as is reasonably possible, this information will be submitted to the appropriate agency, Department of Natural Resources and/or Federal Emergency Management Agency Regional Office, along with the County's plan of action to correct the violation to the degree possible.
5. **Notification of Violation and Remedies:** The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance 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. A permit or approval applied for after construction or use has been initiated, an after the fact permit, shall be subject to an administrative remedy for failure to comply comprised of an increased application fee. After the fact application for a permit does not guarantee approval. 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 or 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 thirty (30) days.

6. **Failure to Comply:** 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 Ordinance 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 Ordinance.
7. **Mandamus Proceedings:** Any taxpayer or taxpayers of the County may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

**CHAPTER 5
ZONING DISTRICTS, LAND USE AND REQUIREMENTS**

INTRODUCTORY PROVISIONS

- ARTICLE 5A. FLOOD HAZARD ZONE AND DISTRICTS (GFP, FW, FF)**
- ARTICLE 5B. SHORELAND ZONE LAND USE DISTRICTS (SP, RD, SP-LD)**
- ARTICLE 5C. RESOURCE PROTECTION OVERLAY DISTRICTS (RP)**
- ARTICLE 5D. AGRICULTURAL GENERAL DISTRICT (AG)**
- ARTICLE 5E. AGRICULTURAL SERVICE CENTER DISTRICT (ASC)**
- ARTICLE 5F. URBAN EXPANSION DISTRICT (UED)**
- ARTICLE 5G. HIGHWAY COMMERCIAL DISTRICT (HC)**
- ARTICLE 5H. LIMITED HIGHWAY COMMERCIAL DISTRICT (LHC)**
- ARTICLE 5I. LANDING FIELD OVERLAY DISTRICT (LF)**

INTRODUCTORY PROVISIONS

- 8-5-1: CLASSIFICATION OF DISTRICTS**
- 8-5-2: ZONING MAP**
- 8-5-3: DISTRICT BOUNDARIES**
- 8-5-4: SHORELAND CLASSIFICATION SYSTEM AND SHORELAND LAND USE DISTRICTS**
- 8-5-5: PERMITTED, CONDITIONAL AND ACCESSORY USES**
- 8-5-6: INTERIM USE PERMITS**

8-5-1: CLASSIFICATION OF DISTRICTS:

The following zoning districts are hereby established as part of the Clay County Zoning Ordinance:

A. Flood Hazard Zones:

- FW Floodway District
- FF Flood Fringe District
- GFP General Flood Plain District

B. Shoreland Zones:

- SP Special Protection District
- RD Residential District
- SP-LD Special Protection – Low Development
- GD General Use District

C. Resource Protection Zone:

- RP-WHP Resource Protection – Wellhead Protection District
- RP-BIO Resource Protection – Biologically Significant Areas District
- RP-AGG Resource Protection – Aggregate Resources District

D. Agricultural Zones:

- AG Agricultural General District

ASC Agricultural Service Center District

E. Residential Zone:

UED Urban Expansion District

F. Commercial Zones:

HC Highway Commercial District

LHC Limited Highway Commercial District

G. Special Zone:

LF Landing Field Overlay District

H. **Detachments:** Any land detached from an incorporated municipality and placed under the jurisdiction of this Ordinance in the future shall initially be placed in the Agricultural General (AG) Zoning District until it is placed in another district by action of the County Board upon recommendation from the Planning Commission.

8-5-2: ZONING MAP:

A. Identification; Copies On File:

The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, and attested by the County Auditor, together with its date of adoption. Copies of the original Zoning Map shall be filed in the office of the County Recorder and shall remain without changes to be used for reference purposes when there is a need to determine the original zoning. The Official Zoning Map shall be on file in the office of the County Auditor and County Zoning Administrator.

B. Changes:

Changes made on the Official Zoning Map shall be made promptly after an amendment has been approved by the County Board, and bear the date of adoption, and follow the same form as indicated in this subsection.

C. Electronic Copies:

The original and copies of the Official Zoning Map may be kept and distributed in electronic format. A verification by the County Auditor shall be placed in the electronic file attesting to the identity of the Official Zoning Map.

D. Adoption of Official Zoning Map:

The Official Zoning Map which, together with all materials attached thereto, are hereby adopted by reference and declared to be part of this Ordinance. The attached material includes the Flood Insurance Study, Clay County, Minnesota and Incorporated Areas, Flood Insurance Rate Map Index (Map Number 27027CIND2A), and all Flood Insurance Rate Map panels as indicated on the Flood Insurance Rate Map Index that have been printed for the unincorporated areas of Clay County, all of these documents being dated April 17, 2012 and prepared by the Federal Emergency Management Agency (FEMA).

E. **Detachments:** The Flood Insurance Rate Map panels adopted by reference into Section 8-5-2(D) above will include floodplain areas that lie inside of the incorporated boundaries of municipalities at the time of adoption of this ordinance. If any of these floodplain land areas are detached from an

incorporated municipality and placed under the jurisdiction of Clay County after the date of adoption of this ordinance, the newly detached floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of the detachment.

8-5-3: DISTRICT BOUNDARIES:

A. Boundaries on Official Zoning Map:

The location and boundaries of the zoning districts are set forth on the Official Zoning Map.

B. Boundary Lines:

Unless otherwise specified, zoning district boundaries shall follow the center lines of streets, highways, railroad rights of way or waterways; section lines, subdivision lines, lot lines, city limits, or such lines extended.

C. Shoreline Boundaries:

Boundaries indicated as following shorelines of bodies of water shall be construed to follow the Ordinary High Water Level of such shorelands.

D. Measurement of Distances:

Distances not specifically indicated on the Official Zoning Map shall be determined by the scale on the Map.

E. District Boundaries Dividing Single Parcels:

Where a district boundary line divides a parcel which is in a single ownership at the time of passage hereof, the Board of Adjustment may permit the extension of the regulations for either portion of the parcel not to exceed fifty feet (50') beyond the district line into the remaining portion of the parcel.

F. Flood Plain Boundaries:

1. Location of Boundary Lines:

The location of boundary lines shall be determined by the Federal Emergency Management Agency (FEMA) and provided on Flood Insurance Rate Maps (FIRM) developed for Clay County. When necessary this subsection shall be amended by addition of the proper flood plain district boundaries as provided for in section 8-5A-5 of this Chapter.

2. Removal of Flood Plain Designation:

The flood plain designation on the FIRM shall not be removed from flood plain 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 Regulatory Flood Protection Elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if it is determined that, through other measures, lands are adequately protected for the intended use.

3. Determination of Boundaries; Interpretation:

Boundaries of the flood plain districts shall be determined by scaling distances on the FIRM. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the FIRM, 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 of the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of first National Flood Insurance Program map showing the area in the floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given reasonable opportunity to present their case to the Board of Adjustment and submit technical evidence.

4. 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. FEMAs' requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot 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.

8-5-4: SHORELAND CLASSIFICATION SYSTEM AND SHORELAND LAND USE DISTRICTS:

A. Mapped Shoreland Zones:

The extent of the shoreland zones for the water bodies listed in subsection C., below, shall be as shown on the Official Zoning Map and shall include all land within the following distances from public waters:

1. One thousand feet (1,000') from the ordinary high water level or a lake, pond, or flowage; and
2. Three hundred feet (300') from the ordinary high water level of a river or stream.
3. The limits of shoreland districts may be reduced whenever the waters involved are bounded by natural topographic divides which extend landward for a lesser distance and when approved by the Commissioner of the Department of Natural Resources.

B. Relationship of Mapped Shoreland Zones to Zoning Districts:

Mapped shoreland zones are classified in subsection D., below. Each mapped and classified shoreland zone is regulated by zoning districts that establish permitted and conditional uses, density, lot size, dimensional standards and other provisions. Mapped shoreland zones that surround Natural Environment Lakes are regulated as SP Special Protection Districts or SP-LD Special Protection Low Development Districts, except Lake Fifteen which is regulated as an RD Residential Development District. Mapped shoreland zones that surround Recreational Development Lakes listed in Section 8-5-4D.2. and General Development Lakes listed in Section 8-5-4D.3. are regulated as RD Residential Development Districts. In addition to the zoning district provisions, other performance standards and provisions of this Ordinance shall apply to mapped shoreland districts.

C. Shoreland Classification System:

The public waters of the County have been classified by the Department of Natural Resources as shown in the tables below consistent with the criteria found in Minnesota Rules part 6120.2500, and the Protected Waters Inventory Map for the County. The criteria used for classification include the following:

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. In-water 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; and
11. The necessity to preserve and restore certain areas having significant historical or ecological value.

D. Lakes:

1. Natural Environment Lakes:

Inventory I.D.#	Lake Name	Section	Township	Range	Acres
14-1	Maple	31,36	137	43,44	34
14-2	Anderson*	6,1	139	43,44	59
14-3	Anderson*	30,25	139	43,44	25
14-4	Tilde*	24,25	141	43,44	256
14-5	Homestead	8,9,17	137	44	44
14-9	Solem	21	137	44	70
14-10	Tansem	22,27	137	44	36
14-11	Ranum	23,26,27	137	44	51
14-12	Whiskey	25,36	137	44	48
14-16	One	1,21	138	44	47
14-17	Foulball	1,2	138	44	45
14-18	Eleven	2,11	138	44	139
14-19	Three	31	138	44	106
14-21	Ten	9,10,15	138	44	83
14-24	Unnamed	11,14	138	44	28
14-26	Thirteen	13,14,23	138	44	60
14-28	Fourteen	14	138	44	33
14-30	Fifteen	15	138	44	128
14-33	Nelson	16,21	138	44	41
14-35	Mayfield	22,23	138	44	36
14-37	Emma	26	138	44	36
14-38	Laura	27	138	44	60
14-42	Rollag	31	138	44	42
14-44	Anfinson	4,5,33	138,139	44	53
14-46	Backman	2	139	44	34
14-47	Moe	2,11,12	139	44	60
14-49	Lee	9,16	139	44	148
14-52	Solum	11,12,13	139	44	57
14-53	Christ Olson	13,14	139	44	74
14-54	Hoe	14	139	44	55
14-56	Knudson	15	139	44	41
14-58	Perch	17	139	44	38
14-61	Erickson	23,24	139	44	53
14-62	Jergenson	25,26	139	44	67
14-63	Overson	25,26,35	139	44	60
14-65	Burke (Burk)	28	139	44	41
14-66	Unnamed	28	139	44	34
14-68	Unnamed	33,34	139	44	29
14-71	Ness	35,36	139	44	45
14-72	Rustad-Melby (Rustad)	11	140	44	82

14-78	Swede Grove	10,14,15	140	44	138
14-79	Meyer	15,16	140	44	106
14-81	Unnamed	3,10	141	44	28
14-82	Unnamed	17	141	44	42
14-83	Unnamed	20	141	44	37
14-84	Unnamed	23,26	141	44	54
14-85	Unnamed	25,26	14	144	29
14-86	Goose Prairie Marsh	26,27	141	44	4
14-87	Unnamed	34,35	141	44	41
14-88	Unnamed	36	141	44	39
14-89	Doran	30,25	139	44,45	100
14-90	Solwald	7,1,12	140	44,45	58
14-91	Buhaug	1,31	140,141	44,45	48
14-92	Tatlie	31,36	141	44,45	60
14-94	Unnamed	36	137	45	25
14-95	Rushfeldt (Rushfield)	3,9,10	138	45	54
14-96	Bjordahl	12	138	45	56
14-99	Maria (Marin)	9,16	139	45	106
14-100	Silver	23,26	139	45	123
14-102	Unnamed	1	140	45	34
14-103	Cromwell	1,12	140	45	31
14-104	Anderson	12,13	140	45	41
14-105	Horse Shoe	21,28	140	45	44
14-106	Hotsie	6,32	140,141	45	38
14-107	Unnamed	26,27,34	141	45	41
3-658	Long*	13	138	44	89
3-659	Sand*	7,18;12,13	139	43,44	199
3-660	Axberg*	19,24	139	43,44	47
3-66	Pump*	31,36	139	43,44	57
3-662	Cuba*	6,31,1	139,140	43,44	52
84-15	Unnamed**	3,4,34	136,137	45	31

* Also in Becker County

** Also in Wilkin County

2. Recreational Development Lakes:

Inventory I.D.#	Lake Name	Section	Township	Range	Acres
3-657	Turtle*	7,12	138	43,44	183
3-659	Sand*	7,18;12,13	139	43,44	199

* Also in Becker County

3. General Development Lakes:

Inventory I.D.#	Lake Name	Section	Township	Range	Acres
14-80	Flora	4,34	140,141	44	66

E. Rivers and Streams:

<u>1. Transition Rivers</u>	From	To
Red River of the North	Confluence with Buffalo River 30, T142N, R48W	N. section line in Sec. Sec. 12, T142N, R49W
<u>2. Agricultural Rivers</u>		
Red River of the North	Border of Wilkin and Clay Counties	North Section line Sec. 1, T139N, R49W
Red River of the North	S. section line, Sec. 32, T140N, R48W	Confluence with Buffalo R. in Sec. 30, T142N, R48W
Red River of the North	South section line, Sec. 1 T142N, R49W	Border of Norman and Clay Counties
Buffalo River	Border of Becker and Clay Counties	Confluence with Red River of the North in Sec. 30, T142N, R48W
<u>3. Urban Rivers</u>		
Red River of the North	South section line, Sec. 31, T139N, R48W	15 th Ave. North in City of Moorhead

4. Tributary Streams: All protected watercourses, including drainage ditches, shown on the Protected Waters Inventory Map for Clay County, a copy of which is hereby adopted by reference, and not given a classification in this subsection shall be considered "Tributary".

8-5-5: PERMITTED, CONDITIONAL AND ACCESSORY USES:

The following table establishes the allowed uses in zoning districts within Clay County. Articles 5B through 5J establish additional requirements for each of the zoning districts. The following rules shall apply to the use table:

- A. **Permitted Uses:** Uses specified with a “P” are permitted as of right in the district or districts where designated provided that the use complies with all other applicable provisions of this Ordinance.
- B. **Conditional Uses:** Uses specified with a “C” are allowed as conditional uses in the district or districts where designated if granted through the conditional use process described in Section 8-4-6 and provided that the use complies with all other applicable provisions of this Ordinance.
- C. **Accessory Uses:** Accessory uses listed in Section G. of the use table and specified with a “P” are allowed as permitted accessory uses in the district or districts where designated provided that the use is accessory to a primary permitted or conditional use and provided that the use complies with all other applicable provisions of this Ordinance. Accessory uses listed in Section G. of the use table and specified with a “C” are allowed as conditional accessory uses in the district or districts where designated provided that the use is accessory to a primary permitted or conditional use and provided that the use complies with all other applicable provisions of this Ordinance.
- D. **Prohibited Uses:** Any use not listed as permitted, conditional or accessory in a particular district shall be prohibited in that district. Uses not listed may be added in a district through the text amendment process in Section 8-4-5.
- E. **Specific Development Standards:** Any use listed in a row where an abbreviation is indicated in the column headed by “Stds” must conform to specific development standards that are contained in this Ordinance. Specific development standards apply in addition to the general criteria for conditional uses in Section 8-4-6 of this Ordinance, and in addition to all other applicable regulations. The abbreviation indicates the Chapter or Article where the specific development standard is located. Abbreviations shall mean the following:

AG – Article 5D, *Agricultural General District*

FW – Article 5A, *Floodway District*

FF – Article 5A, *Flood Fringe District*

GFP – Article 5A, *General Floodplain District*

S – Chapter 6, *Standards for Specific Land Uses*

SL – Article 5B, *Shoreland Zone Land Use Districts*

8-5-6: INTERIM USE PERMITS

- A. **Purpose:** To allow a use that is neither a permitted use nor a conditional use, for a limited period of time subject to conditions as set forth in this Ordinance.
- B. **Conditional Uses:** The application, public hearing, public notice and procedure requirements for Interim Use Permits shall be the same as those for Conditional Use Permits as provided in the Clay County Land Development Ordinance. Any of the uses identified in Section 8-5-6-E below that are currently identified in any zoning district as a conditional use shall be changed to Interim Uses. Table 5-1 shall be amended accordingly.

- C. **Standards:** The County Planning Commission shall issue such Interim Use Permits only if it finds that such use at the proposed location:
1. Meets the General Review Standards of a Conditional Use Permit as set forth in the Clay County Land Development Ordinance.
 2. Will terminate upon a date or an event that can be identified with certainty.
 3. Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future.
 4. Will be subject to, by agreement with the owner, any conditions that the County has deemed appropriate for the permission of the use, including the condition that the owner may provide an appropriate financial surety to cover the cost of removing the Interim Use and any Interim structures upon expiration of the Interim Use Permit.
- D. **Termination:** An Interim Use Permit shall terminate upon the occurrence of any of the following events, whichever occurs first:
1. Within 90 days of change of ownership of property, unless extended by the Planning Commission.
 2. The date or event stated in the permit, occurs;
 3. A violation of conditions under which the permit was issued;
 4. The use has been discontinued for a period of 12 or more consecutive months; or,
 5. The zoning district is amended and such a use is no longer allowed.
- E. **Uses that will be considered for Interim Use Permits:**
1. An occasional special event or short-term use. (i.e. music concert, flea market, carnival, house storage, etc.)
 2. A second dwelling on the parcel to be used by parent(s), grandparent(s), children, sibling(s) by blood, marriage, adoption, or other special relationships consistent with the purpose that meets the following standards:
 - a. Said dwelling must be a manufactured home (single or double-wide).
 - b. Dwelling must not be placed on a permanent foundation.
 - c. Dwelling must have a septic system that meets County Health requirements.
 - d. Dwelling must share a common well with the principal dwelling.
 - e. No more than one (1) additional dwelling shall be allowed on a parcel.
 - f. Parcel must be at least five (5) acres in size.
 3. Meteorological towers
 4. Portable concrete and asphalt mixing plants
 5. Farm produce stands or farmers' markets not located on property used in the farming operation.
 6. Aggregate mining and its associated operations
 7. A Bed and Breakfast

8. A Home Occupation located in an accessory building
9. Temporary tire and/or waste collection and/or recycling operations
10. Yard waste composting site (community or neighborhood)
11. Kennels
12. Horse Boarding/Stables.

Clay County Development Code
Zoning Districts – **Chapter 5**
Table 5-1 Permitted, Conditional, Interim and Accessory Uses Allowed in Each Zoning District

March 13, 2012

ARTICLE 5A. FLOOD HAZARD ZONE AND DISTRICTS (GFP, FW, FF)

8-5A-1: PURPOSE

8-5A-2: INFORMATION PROVIDED BY COUNTY

8-5A-3: DISCLAIMER OF LIABILITY

8-5A-4: DISTRICTS AND AREA INCLUDED

8-5A-5: RELATIONSHIP OF OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS

8-5A-6: FLOODWAY DISTRICT (FW)

8-5A-7: FLOOD FRINGE DISTRICT (FF)

8-5A-8: GENERAL FLOODPLAIN DISTRICT (GFP)

8-5A-9: STANDARDS FOR UTILITIES, RAILROADS, ROADS AND BRIDGES IN FW, FF OR GFP DISTRICTS

8-5A-1: PURPOSE:

The purpose of the Flood Hazard Zone is to designate floodplain overlay districts that will maintain Clay County’s eligibility in the National Flood Insurance Program, to minimize losses due to periodic flooding including loss of life and loss of property, minimize health and safety hazards, minimize disruption of commerce and governmental services, and minimize the risk of extraordinary public expenditures. The purposes of this Zone may be met by the applicant through floodproofing measures that meet the requirements of this Article, such as elevating structures, or through a map amendment initiated by the landowner that removes the land from the Flood Hazard Zone.

This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community’s eligibility in the National Flood Insurance Program.

8-5A-2: INFORMATION PROVIDED BY COUNTY:

Information on flood hazard zones, the location of flood district boundaries, and flood elevation levels may be provided to a landowner or applicant by County staff. Such information is derived directly from the Federal Emergency Management Agency (FEMA). Clay County does not guarantee the accuracy of such information.

8-5A-3: WARNING AND DISCLAIMER OF LIABILITY:

This Ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance will not create any liability on the part of Clay County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decisions lawfully made there under.

8-5A-4: DISTRICTS AND AREA INCLUDED:

The Flood Hazard Zone designates an area that shall be regulated as the FW Floodway District, the FF Flood Fringe District, and the GFP General Floodplain District. The Flood Hazard Zone area shall

include those areas designated as Zone AE or A on the Flood Boundary and Floodway Map Official Zoning Map and/or attachments thereto as adopted in Section 8-5-2D of this Chapter.

8-5A-5: RELATIONSHIP OF FLOOD HAZARD OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS:

The Flood Hazard Districts (FF, FW and GFP) are overlay districts. These districts overlay other underlying zoning districts such as the AG and RR districts. The requirements of the overlay districts in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply.

8-5A-6: FLOODWAY DISTRICT (FW):

- A. **Areas Included:** The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 8-5-2D of this Chapter. For lakes, wetlands and other basins, the Floodway District shall include those areas designated as Zone A and Zone AE on the Flood Insurance Rate Map panels adopted in Section 8-5-2D that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- B. **Uses:** Because of the potential for flood damage in the FW Floodway District uses are very limited. Permitted and conditional uses in the FW Floodway District are those specified in Table 5-1. All other uses shall be prohibited.
- C. **Standards for Permitted Uses:** Within the FW Floodway District, permitted uses shall conform to the listed standards.
 - 1. The use shall have a low flood damage potential.
 - 2. The use shall be permissible in the underlying zoning district.
 - 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.

D. Standards for FW Floodway District Conditional Uses:

The following standards shall apply to structures and uses in the FW Floodway District:

- 1. **All Uses:** No structure (temporary or permanent), fill (including fill for roads 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 reach or reaches affected.
- 2. **Placement of Fill:** Placement of fill shall meet the following conditions:
 - a. A site plan has been submitted showing: the location of proposed fill, and the volume and components of the proposed fill;
 - b. An engineering and hydrology/hydraulics impact analysis has been completed and submitted; and
 - c. An authorized representative of the Federal Emergency Management Agency has approved the application for placement of fill. (FEMA reviews and approves CLOMR involving fills that cause stage increase. Community may want to limit approval to the No Rise model approved at the local and state levels).

1. **Recreational Vehicles:** Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, shall meet the requirements of Section 8-6-27 of this Ordinance.
2. **Accessory Structures:**
 - a. Accessory structures shall not be designed for human habitation.
 - b. **Construction and Location of Accessory Structures:**
 1. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 2. Whenever possible, accessory structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 3. So far as practicable, accessory structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
 - c. **Floodproofing of Accessory Structures:**

Accessory structures, if permitted, 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 the accessory structure constitutes a minimal investment, does not exceed five hundred seventy-six (576) square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage.

 1. **Anchoring:** 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. **Mechanical and Utility Equipment:** Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and
 3. **Hydrostatic Pressure:** To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
 4. **Accessory Structures Within Farmstead Ring Levee:** Within farmstead ring levee systems, as described in 6-d-3 below, agricultural structures exceeding five hundred (500) square feet in size may be constructed with the lowest floor below the regulatory flood protection elevation provided the structure is internally wet floodproofed as outlined in 6-D below.
5. **Storage of Materials and Equipment:**
 - a. **Prohibited:** 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.

- b. **Allowed:** 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 governing body.
6. **Permanent Structural works for flood control:**
- 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 Minnesota Statute, Chapter 103G.
 - b. Levees, dikes or floodwalls intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.
 - c. Structural works for flood control constructed in the floodway to protect individual structures or agriculture crops or farmsteads shall not cause an increase to the 100-year or regional flood.
 - d. **Farmstead Ring Levee:** Within farmstead ring levee systems, as described in (3) below, agricultural structures exceeding five hundred (500) square feet in size may be constructed with the lowest floor below the regulatory flood protection elevation provided the structure is internally wet floodproofed as outlined in the following floodproofing and administrative provisions:
 - i. **Agricultural Structures Defined:** For the purposes of this subsection 8-5A-6D.6 only, agricultural structures shall be defined as structures related to the growing of crops or raising of livestock. This definition of agricultural structures shall include barns, machine sheds, storage buildings, and garages for the storage of farming machinery and equipment. This definition of agricultural structure does not include a principal or accessory structure to a residential, commercial, or other use not needed for the growing of crops or raising of livestock and shall specifically not include a structure used for human habitation or for parking of non-farming related vehicles for the human occupants of structures within the farmstead ring levee system.
 - ii. **Habitable Space Defined:** For the purposes of this subsection 8-5A-6D.6 only, habitable space (room) is space in a structure used for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility space and similar areas, are not considered habitable space. Further, no space within an agricultural structure constructed in accordance with this Section with a floor below the regulatory flood protection elevation shall be used as habitable space.
 - iii. **Farmstead Ring Levee Criteria:** Agricultural structures with the lowest floor below the regulatory flood protection elevation authorized by this Chapter must be located within the confines of a ring levee system meeting the following criteria:
 - 1. **Part of Watershed District Program:** The ring levee system must have been constructed as part of a cost share program of a watershed district established pursuant to Minnesota Statute, Chapter 103D;
 - 2. **Design Certification:** A registered professional engineer or qualified watershed district staff person must certify that the farmstead ring levee system was constructed in accordance with the design criteria specified by the watershed district as a condition of state/local cost share funding;

- iv. **Elevation:** The low point of the ring levee system must be at a minimum at least two (2) feet above the flood of record or one (1) foot above the 100-year flood level, whichever is the greater of the two. A registered professional engineer or land surveyor must establish the elevation of the low point of the ring levee system in a datum as specified by the county. A qualified hydrologist, watershed district staff person, or registered professional engineer must establish the 100-year flood elevation and flood of record elevation for the location of the farmstead ring levee system. A farmstead ring levee 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.
- v. **Additional Administrative Provisions:** In addition to the permitting and administrative provisions of this Ordinance, the following additional provisions apply to subsection 8-5A-6D.6.:
 1. **Application Requirements:** The application materials for the conditional use permit must clearly indicate the floodproofing classification that is being proposed and shall include a set of floodproofing plans and specifications prepared by a registered professional engineer or architect.
 2. **CUP Requirements:** The conditional use permit issued by the community must specify the floodproofing classification that is being authorized and the regulatory flood protection elevation for the site.
 3. **Engineering Certification:** After construction of an agricultural structure authorized by subsection 8-5A-6-D.6. the applicant shall be required to provide certification by a registered professional engineer or architect that the structure was constructed in accordance with the building/floodproofing specifications authorized in subsection f. below.
 4. **Zoning Compliance Permit Required:** Upon completion, the community must issue a certificate of zoning compliance prior to the use of the structure.
 5. **Flood Insurance Coverage and Cost Notification:** The applicant shall be advised in writing by Clay County that the internal (wet) floodproofing techniques authorized herein will not be credited for insurance rating purposes by the National Flood Insurance Program. Therefore, the lowest floor for flood insurance rating purposes will be the base or floor level of the internally flooded space. Should flood insurance be purchased, the premiums may be extremely expensive.
 6. **Document to be Recorded:** A document must be prepared and recorded that references the property in question such that it would appear in the chain of title and clearly states all of the conditions that have stipulated in the conditional use permit authorizing construction of a structure with the lowest floor below the regulatory flood protection elevation.
- vi. **Structural Design:** The following structural design specifications shall be met for any farmstead ring levee authorized under this subsection:
 1. **Floodproofing:** The structure must be designed to the FP-3/FP-4 Floodproofing Classification (W-4 spaces only) found in the 1995

version of the US Army Corps of Engineers document titled “Flood Proofing Regulations,” a copy of which is hereby adopted by reference and declared to be a part of this Ordinance. If there is a conflict of terms found in Flood Proofing Regulations and the definition of terms used in this Ordinance, the latter shall prevail.

2. **Design of Openings:** The design of the structure must include a minimum of two “automatic” openings in the outside walls of the structure to allow for the equalization of hydrostatic flood forces on all spaces inside the outer walls of the structure. The automatic openings shall be placed on at least two sides of the structure and the bottom of all openings shall be placed no higher than one foot above the lowest adjacent grade of the structure. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. Opening a garage door during flooding is not considered an automatic opening and shall not meet the requirement for automatic openings. The sizing of the automatic openings shall be in accordance with a design certified by a registered professional engineer or architect. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention. In the design of the openings, the engineer or architect may consult the Federal Emergency Management Agency’s publication entitled “Openings in Foundation Walls for Buildings in Special Flood Hazard Areas in accordance with the National Flood Insurance Program,” a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
3. **Storage of Materials:** Special care must be taken to make sure that all contents stored in the structure are placed in accordance with Chapter 11 of the Federal Emergency Management Agency’s publication entitled “Flood Proofing Regulations.” Specifically, the conditional use issued shall indicate those types of chemicals and similar contents for agricultural uses that are: 1) “extremely hazardous (Class XX)” and require prohibition from the floodplain; and 2) “sufficiently hazardous (Class X)” and, if stored in the structure, must be stored above the regulatory flood protection elevation.

8-5A-7: FLOOD FRINGE DISTRICT (FF):

- A. **Areas Included:** The Flood Fringe District shall include those areas designated as floodway fringe on the Insurance Rate Map adopted in Section 8-5-2D of this Chapter, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe District shall include those areas designated as Zone AE and Zone A on the Flood Insurance Rate Map panels adopted in Section 8-5-2(D) that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- B. **Uses:** Permitted, conditional and accessory uses in the FF Flood Fringe District shall be those

permitted, conditional and accessory uses allowed in the underlying zoning district and as indicated in Table 5-1

C. **Standards for Permitted Structures and Uses in the FF Flood Fringe District:** The following standards shall apply to structures and uses in the FF Flood Fringe District:

1. **Finished Floor Elevation:** All structures, including accessory structures, must be elevated on fill so that the lowest floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot (1') below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen feet (15') beyond the outside limits of the structure erected thereon.
2. **Internal Floodproofing for Small Accessory Structures:** As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred seventy-six (576) square feet at its largest projection at ground level may be internally floodproofed in accordance with subsection 8-5A-6D4 of this Article.
3. **Cumulative Placement of Fill:** The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with subsection 1 above.
4. **Storage of Materials and Equipment:** The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

D. **Standards for Conditional Uses in the FF Flood Fringe District:**

Conditional Uses: Any structure that is not elevated on fill or floodproofed in accordance with C1 or 2 above, or any use of land that does not comply with the standards in C3 or 4 above shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Section 8-4-7 of this Ordinance.

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 elevation. 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: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above noted alternative elevation methods are subject to the following additional standards:
 - a. **Design And Certification:** The structure's design and as-built condition must be certified by a registered 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 must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - b. **Specific Standards for Above-Grade, Enclosed Areas:** Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:
 - i. **Openings:** A minimum area of “automatic” openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum

of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot (1') above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

- ii. **Flood Resistant Materials:** 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.
2. **Basements:** "Basements", as defined by Section 8-2-2 of this Ordinance, shall be subject to the following:
- a. Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection D-3 below.
 - b. Residential basements, as defined by Section 8-8-2 may be constructed below the regulatory flood protection elevation if in compliance with the FP-1 floodproofing classification (i.e., a W1 space) of the Minnesota State Building Code and in accordance with the following minimum requirements, consistent with 44 Code of Federal Regulation 60.6(c):
 - i. Flood depth: Flood depths shall not be more than five feet for developable lots that are contiguous to land above the 100-year flood or three feet for other lots;
 - ii. Flood velocity shall be limited to five feet per second;
 - iii. Flood warning time shall be at least 12 hours. Flood warning times of two hours or greater may be approved if the community demonstrates that it has flood warning system and an emergency plan in operation that is adequate to ensure safe evacuation of affected residents.
 - iv. Basement structural requirements:
 1. Basements shall be designed and constructed so that any basement area, utilities and sanitary facilities below the floodproofed level would be floodproofed in accordance with the FP-1 floodproofing classification (e.g. watertight with walls impermeable to the passage of water without human intervention);
 2. Basement walls shall be built with the capacity to resist the hydrostatic and hydrodynamic loads as well as the effects of buoyancy resulting from flooding to the floodproofed design level, and shall be designed so that minimal damage will occur from floods exceeding that level.
 3. Floodproofing design level shall be an elevation no lower than the regulatory flood protection elevation where the difference between the 100-year flood and the 500-year flood levels is three feet or less and two feet above the 100-year flood level where the difference between the 100-year flood and 500-year flood levels is greater than three feet.

- v. The top of basement floor shall be no lower than five feet below the Regulatory Flood Protection Elevation.
 - vi. Fill:
 1. The area surrounding the structure must be filled to the 100-year flood level plus one (1) foot or higher on all four sides;
 2. Fill must be compacted; and
 3. Slopes must be protected by a vegetative cover.
 - vii. A registered professional engineer or architect shall develop or review the building's structural design, specifications, and plans, including consideration of depth, velocity, and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for meeting the provisions of this paragraph; and
 - viii. The community building inspector or authorized representative shall inspect the structure to verify that it meets the provisions of this section.
3. **Floodproofing of Non-Residential Structures:** 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.
4. **Erosion/Sedimentation Control Plan:** When at any one time more than one thousand (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, an erosion/sedimentation control plan must be submitted.
5. **Storage of Materials and Equipment:**
- a. **Prohibited Materials:** 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.
 - b. **Removable Materials, Equipment:** 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 governing body.

Historical, Ecological Value: Areas having significant historical or ecological value shall be preserved and restored.

E. Standards for All Flood Fringe Uses:

1. **Vehicular Access:** All new principal structures must have vehicular access at or above an elevation not more than two feet (2') below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations 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 and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) 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 7 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
4. **Fill:** Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. 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 multi-structure or multi-lot 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. **Hydraulic Capacity:** Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
6. **Recreational Vehicles:** Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, shall meet the requirements of Section 8-6-27 of this Ordinance.
7. **Manufactured Homes:** All manufactured homes must be securely anchored to an adequately anchored 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.

8-5A-8: GENERAL FLOOD PLAIN DISTRICT (GFP) AND ZONE A LAKES AND WETLANDS:

A. General Flood Plain District

1. **Areas Included:** The GFP General Flood Plain District shall include those streams designated as Zone A or Zone AE without delineated floodway on the Flood Insurance Rate Map adopted in Section 8-5-2D~~3~~ of this Chapter, as these areas do not meet the definition of floodway and flood fringe areas in 8-5A-6(A) and 8-5A-7(A). Floodway and flood fringe areas are not currently mapped for the GFP General Flood Plain District.
2. **Permissible Uses:**
 - a. The floodway permitted uses listed in Table 5-1 shall be permitted uses in the General Floodplain District.
 - b. All other uses shall be subject to the floodway/flood fringe evaluation criteria in 3-5 below.

Section 8-5A-6 shall apply if the proposed use is in the Floodway District. Section 8-5A-7 shall apply if the proposed use is in the Flood Fringe District.

3. **Application; Required Information for Development Permits and Other Approvals:** Upon receipt of an application for a Development permit or other approval for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District:
 - a. **Typical Valley Cross-Section:** 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. **Surface View Plan:** 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:** Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred feet (500') in either direction from the proposed development.
4. **Technical Assistance:** The applicant shall submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood (100-Year Flood Elevations), if not available, 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 Parts 6120.5000 through 6120.6200 and 44 CFR Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
 - a. **Peak Discharge:** Estimate the peak discharge of the regional flood.
 - b. **Water Surface Profile:** Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. **Necessary Floodway:** Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than five-tenths foot (0.5'). A lesser stage increase than five-tenths foot (0.5') 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.
5. **Action on Application:** The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the County Board. The County Board must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The County Board, prior to 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. Once the floodway and flood fringe boundaries have been determined, the County Board shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable conditions for the proposed conditional use in Section 8-5A-6 and 8-5A-7 this Article.

- B. Zone A Lakes:** Procedures for determining the 1% annual chance flood elevations (100-Year flood elevations) for lakes and wetlands located in Zone A:
1. Upon receipt of an application for a development permit or other approval within a Zone A for a lake or wetland, the Zoning Administrator will use the 1% annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the 1% annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Zoning Administrator for the determination for the 1% annual chance flood elevation in accordance with approved FEMA methods.
 2. 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 the 1% annual chance flood elevation (100-year flood elevation). Procedures consistent with Minnesota Regulations, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.

Once the 1% annual chance flood elevation (100-year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of Section 8-5A-6 and 8-5A-7 of this Ordinance depending on whether the use is in the Floodway District or the Flood Fringe District, respectively, as determined by the criteria in Sections 8-5A-6A and 8-5A-7A of this ordinance.

8-5A-9: STANDARDS FOR UTILITIES, RAILROADS, ROADS AND BRIDGES AND ON-SITE SEWAGE TREATMENT SYSTEMS AND WATER SUPPLY SYSTEMS IN FW, FF AND GFP DISTRICTS

The following standards shall apply to the location and construction of public utilities, public transportation facilities and on-site sewage treatment and water supply systems in Flood Hazard Zones:

- A. Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in a Flood Hazard Zone shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- B. Public Transportation Facilities:**
1. **Compliance Required:** Railroad tracks, roads, and bridges to be located within the Flood Hazard Zone shall comply with the provisions of this Article.
 2. **Elevation:** Railroad tracks, roads, and bridges shall be elevated above the regulatory flood protection elevation 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.
 3. **Minor Roads or Auxiliary Roads or Railroads:** Minor roads or auxiliary roads or railroads may be constructed at a lower elevation than the base flood elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. On-site Sewage Treatment and Water Supply:** Where public utilities are not provided:
1. **Water Supply System:** On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and meet Minnesota Department of Health

requirements in Minn. Rules Chapter 4725 for wells including the requirement that casings extend at least five feet (5') above the base flood elevation for on-site water supply systems; and

- 2. Sewage Treatment System:** New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current State-wide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

ARTICLE B. SHORELAND ZONE LAND USE DISTRICTS (SP, RD, SP-LD)

- 8-5B-1: PURPOSE**
- 8-5B-2: DISTRICTS ESTABLISHED (SP, RD, SP-LD)**
- 8-5B-3: TIERS – RIPARIAN AND NON-RIPARIAN**
- 8-5B-4: PERMITTED, CONDITIONAL AND ACCESSORY USES**
- 8-5B-5: DIMENSIONAL STANDARDS FOR SP, RD AND SP-LD DISTRICTS**
- 8-5B-6: CONTROLLED ACCESS LOTS FOR NON-RIPARIAN LOTS**
- 8-5B-7: GENERAL STANDARDS FOR STRUCTURES AND USES IN SP, RD AND SP-LD DISTRICTS**
- 8-5B-8: SIGNIFICANT HISTORIC SITES**
- 8-5B-9: STEEP SLOPES**
- 8-5B-10: SHORELAND ALTERATIONS**
- 8-5B-11: VEGETATION ALTERATIONS**
- 8-5B-12: TOPOGRAPHIC ALTERATION; GRADING AND FILLING**
- 8-5B-13: STORM WATER MANAGEMENT**
- 8-5B-14 STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMI-PUBLIC USES:**
- 8-5B-15: AGRICULTURAL USE STANDARDS**
- 8-5B-16: FOREST MANAGEMENT STANDARDS**
- 8-5B-17: MINING OF PEAT**
- 8-5B-18: WATER SUPPLY**
- 8-5B-19: SEWAGE TREATMENT**

8-5B-1: PURPOSE:

The establishment of land use districts in the shoreland zones shall implement the following goals and policies of the Clay County 2002 Comprehensive Plan and County Water Plan:

- A. **Natural Resource Goal #1:** Identify, protect, and preserve the County’s high quality natural, scenic, cultural and open space areas.
 - 1. **Policy 13.** Continue to enforce shoreland regulations on the County’s lakes, rivers and streams.
 - 2. **Policy 22.** Adopt by reference the goals and policies of the County’s Water Plan.

8-5B-2: DISTRICTS ESTABLISHED (SP, RD, SP-LD)

Within the shoreland zones, as described in Section 8-5-4 of this Chapter, the following zoning districts shall be established:

- A. Within shoreland zones of public waters classified as Natural Environment Lakes in Section 8-5-4D.1., except those Natural Environment Lakes designated by Clay County as Special Protection Low Development Lakes and except for Lake Fifteen, the SP Special Protection District provisions shall apply:
- B. Within shoreland zones of public waters classified as Recreational Development Lakes in Section 8-5-4D.2., Lake Fifteen, and public waters classified as General Development Lakes in Section 8-5-4D.3, the RD Residential District provisions shall apply.

- C. Within shoreland zones of public waters classified as Transitional, Agricultural, Urban Rivers and Tributary Streams in Section 8-5-4E, the SP Shoreland Protection District Rivers and Streams provisions shall apply.
- D. Within shoreland zones of public waters classified as Natural Environment and designated as protected wetlands, the SP-LD Special Protection Low Development District provisions shall apply.

8-5B-3: TIERS – RIPARIAN AND NON-RIPARIAN

SP Special Protection Districts, RD Residential Districts, and SP-LD Special Protection Low Development Districts shall be comprised of two tiers, a riparian tier and a non-riparian tier. Lots or parcels containing any shoreline shall be considered to be located in the riparian tier and subject to provisions applying to riparian tiers. Lots or parcels that do not contain any shoreline shall be considered to be located in the non-riparian tier and shall be subject to provisions applying to non-riparian tiers.

8-5F-4: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the SP Special Protection District and the RD Residential District and SP-LD Special Protection Low Development District are those specified in Table 5-1. All other uses shall be prohibited.

8-5B-5: DIMENSIONAL STANDARDS FOR SP, RD AND SP-LD DISTRICTS

The placement, design and heights of structures within SP Special Protection, RD Residential, and SP-LD Special Protection Low Development Districts shall conform to the provisions of the following table (sf = square feet):

Table 8-5-1 Dimensional standards for SP, RD and SP-LD Districts

	SP-LD	SP	RD	SP (River and Stream)
Minimum Lot Area (square feet)				
Riparian	10 acres	90,000 sf	80,000 sf	120,000 sf
Non-Riparian	10 acres	160,000 sf	80,000 sf	160,000 sf
Minimum Lot Width				
Riparian	400 feet	300 feet	200 feet	400 feet
Non-Riparian	400 feet	300 feet	200 feet	400 feet
Maximum Impervious Surface Coverage	10% of lot area	25% of lot area	25% of lot area	25% of lot area
Minimum Setbacks from OHWL for all Structures, Except On-site Sewage Systems and Water-Oriented Accessory Structures	200 feet	200 feet	100 feet; except for NE lakes which shall be 150 feet	200 feet

Minimum Setbacks from OHWL for On-site Sewage Systems		200 feet	200 feet	100 feet; except for NE lakes which shall be 150 feet	200 feet
Minimum Setbacks for All Structures, Including On-site Sewage Systems and Water-Oriented Accessory Structures					
	Shore impact zone	Structures, except stairways and landings, may not be located within either the shore impact zone or bluff impact zone			
	Bluff impact zone				
	From edge of wetland	100 feet	N/A	N/A	N/A
	From unplatted cemetery	50 feet	50 feet	50 feet	50 feet
	From right-of-way line of federal, state or County highway	50 feet	50 feet	50 feet	50 feet
	From right-of-way line of township road, public street, railroad, private road or other unclassified	20 feet	20 feet	20 feet	20 feet
	Side yard setback	10 feet	10 feet	10 feet	10 feet
	Highway setbacks				

8-5B-6: CONTROLLED ACCESS LOTS FOR NON-RIPARIAN LOTS

Riparian lots intended for use by owners of non-riparian lots are permissible if all of the following standards are met:

A. Suitability; Limitation on Use:

The proposed controlled access lot shall be suitable for the intended uses of controlled access lots such as boat launching, swimming, and fishing. Controlled access lots shall not be used as residential lots.

B. Minimum Lot Area, Width and Number of Lots Having Access:

A controlled access lot proposed for access by one non-riparian lot shall meet the minimum lot area and minimum lot width standards for a riparian lot in the SP or RD district where the proposed controlled access lot is located. The minimum lot area and minimum lot width of the controlled access lot shall both be increased by twenty percent (20%) for each additional non-riparian lot having access over the controlled access lot up to a maximum of ten (10) lots total having access rights over the controlled access lot. A nonconforming lot shall not be used for a controlled access lot.

C. Joint Ownership:

Controlled access lots shall be jointly owned by the owners of all lots having riparian access rights on the controlled access lot.

D. Design Requirements:

The controlled access lot shall meet the following design requirements:

1. **Common Facilities:** Common facilities and activities shall be centralized in the most suitable locations on the controlled access lot to minimize topographic and vegetation alterations.
2. **Screening:** All parking areas, storage buildings, and other facilities shall to be screened by vegetation or topography as much as practical from view from the public water, assuming

summer, leaf-on conditions.

3. **Impervious Surface:** Impervious surface on a controlled access lot shall be limited to twenty-five percent (25%) of the lot area. Impervious surfaces shall include gravel drives.

E. Covenants Required:

Covenants, or other equally effective legal instruments, shall be developed that specify the following:

1. **Owners:** Identification of lots and owners having rights to use the controlled access lot.
2. **Activities:** Activities that are allowed shall be specified and may only include watercraft launching, loading, storage, beaching, mooring, docking and other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights of adjacent property owners. Examples of activities that do not significantly conflict include swimming, sunbathing, or picnicking.
3. **Vehicle Limitation:** The covenants shall specify the total number of vehicles allowed to be parked on the controlled access lot.
4. **Watercraft Limitation:** The covenants shall specify the total number of watercraft allowed to be continuously moored, docked, or stored over water.
5. **Posting Required:** Information describing the covenants required in 1. through 4, above, shall be conspicuously posted on the controlled access lot.
6. **Common Facilities:** Common facilities and activities shall be centralized in the most suitable locations on the controlled access lot to minimize topographic and vegetation alterations.
7. **Screening:** All parking areas, storage buildings, and other facilities shall to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

8-5B-7: GENERAL STANDARDS FOR STRUCTURES AND USES IN SP, RD AND SP-LD DISTRICTS

A. Measuring for Minimum Lot Area and Lot Width:

Only land above the ordinary high water level of public waters can be used to meet lot area standards; and lot width standards must be met at both the ordinary high water level and at the building line.

B. Application of Setback Requirements:

When more than one setback applies to a site, structures and facilities 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 without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

C. Bluff Impact Zones:

Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

D. 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. High Water Elevations:

Structures must be placed in accordance with the floodplain provisions of Article 8-5A applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or floodproofed must be determined as follows:

1. **Lakes:** For lakes, by placing the lowest floor at a level at least three feet (3') above the highest known water level, or three feet (3') above the ordinary high water level, whichever is higher;
2. **Rivers; Streams:** For rivers and streams, by placing the lowest floor at least three feet (3') above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three feet (3') 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 elevation. Under all three (3) approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts Minnesota Rules 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

F. Stairways, Lifts, and Landings:

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

1. **Maximum Width:** Stairways and lifts must not exceed four feet (4') in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties;
2. **Landings:** Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties;
3. **Canopies or Roofs:** Canopies or roofs are not allowed on stairways, lifts, or landings;
4. **Construction:** Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
5. **Location:** 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; and
6. **Physically Handicapped:** 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 1 through 5 of this Section are complied with in addition to the requirements of Minnesota Regulations chapter 1340.

8-5B-8: 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.

8-5B-9: 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.

8-5B-10: SHORELAND ALTERATIONS:

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.

8-5B-11: VEGETATION ALTERATIONS:

A. Exemption:

Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by subsection 8-5B-12F of this Article, and except for agricultural and forest management uses as regulated in Sections 8-5B-15 and 8-5B-16 of this Article are exempt from the vegetation alteration standards that follow.

B. Standards for Removal:

Removal or alteration of vegetation, is allowed subject to the following standards:

1. **Prohibited in Shore and Bluff Impact Zones.** Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
2. **Outside Shore and Bluff Impact Zones -Erosion Control and Sedimentation Plan:** Intensive vegetation clearing for forest land conversion to another use outside of the shore and bluff impact zones is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
3. **Limited Clearing for View or Access:** In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - a. **Screening:** The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - b. **Shading:** Along rivers, existing shading of water surfaces is preserved; and
 - c. **Dead, Diseased Vegetation; Safety Hazard:** The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

8-5B-12: TOPOGRAPHIC ALTERATION; GRADING AND FILLING:

A. Grading, Filling and Excavations:

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. However, 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.

B. Public Roads and Parking:

Public roads and parking areas are regulated by subsection F of this Section.

C. Permit Required:

Notwithstanding subsections A and B of this Section, a grading and filling permit will be required for:

1. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
2. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

D. Considerations; Conditions: The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

1. **Wetland:** Grading or filling in any wetland is not allowed under the Minnesota Wetland Conservation Act (WCA) (Minn. Stat. Chapter 103G) unless the impacts are determined to be exempt or the impacts are replaced according to WCA. All wetland or water related grading and filling shall be evaluated by filing “Minnesota Local/State/Federal Forms for Water/Wetland Protection” with the Clay County Soil and Water Conservation District (SWCD). The SWCD shall review the application for compliance with WCA requirements.
2. **Alterations:** Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
3. **Mulches:** Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
4. **Soil Erosion:** Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
5. **Stabilization of Altered Areas:** Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Natural Resources Conservation Service;
6. **Unstable Slope Prohibited:** Fill or excavated material must not be placed in a manner that creates an unstable slope;
7. **Steep Slopes, Professionals Required:** Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater;
8. **Bluff Impact Zones:** Fill or excavated material must not be placed in bluff impact zones;
9. **Below Ordinary High Water Level:** Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes Annotated section 105.42;

10. **Topography:** Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
11. **Riprap; Filter Blanket:** Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet (3') horizontal to one foot (1') vertical, the landward extent of the riprap is within ten feet (10') of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet (3').

E. Connections to Public Waters:

Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

F. Roads, Driveways and Parking Areas; Placement and Design:

1. **Design:** 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 local soil and water conservation district, or other applicable technical materials.
2. **Placement:** Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
3. **Watercraft Access Ramps, Access Roads, Parking Areas:** Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 8-5B-12 must be met.

8-5B-13: STORM WATER MANAGEMENT:

A. General Standards:

1. **Use of Natural Drainage ways, Wetlands and Vegetated Soil Surfaces:** When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.
2. **Minimum Disturbance:** 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.
3. **Constructed Facilities:** When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water 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.

B. Specific Standards:

1. **Impervious Surface Coverage:** Impervious surface coverage of lots must not exceed twenty-five percent (25%) of the lot area.
2. **Design and Installation by Qualified Professionals:** When constructed facilities are used for storm water management, documentation must be provided by qualified professionals that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
3. **Filtering or Settling of Suspended Solids; Surface Debris:** New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

8-5B-14 STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMI-PUBLIC USES:

Surface water-oriented commercial uses and public, or semi-public 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. **Topographic and Vegetative Screening:** In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
- B. **Short-Term Watercraft Mooring:** Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- C. **Signs; Lighting:** 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:
 1. **In or Upon Public Waters:** 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. **Shore Impact Zone:**
 - a. **Allowed:** Signs conforming to Section 8-3-11 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.
 - b. **Text:** They must only convey the location and name of the establishment and the general types of goods or services available.
 - c. **Size:** The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet (10') above the ground, and must not exceed thirty three (33) square feet in size.
 - d. **Lighting:** If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
 - e. **Outside Lighting:** 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.
- D. **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.

8-5B-15: AGRICULTURAL USE STANDARDS:

A. Permitted Uses:

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 consistent with the field office technical guides of the local soil and water conservation districts 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 fifty feet (50') from the ordinary high water level.

B. Animal Feedlots:

Animal feedlots must meet the following standards:

1. **New Feedlots:** New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred feet (300') from the ordinary high water level of all public waters basins; and
2. **Modifications, Expansions:** Modifications or expansions to existing feedlots that are located within three hundred feet (300') of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones;
3. **Certificate of Compliance:** Feedlots must be registered, permitted and/or have a certificate of compliance in accordance with Minnesota Pollution Control Agency rules 7020.0100 to 7020.1900.

8-5B-16: FOREST MANAGEMENT STANDARDS:

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-Point Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management, "Best Management Practices in Minnesota." A conditional use permit is required when converting forested land to another type of use.

8-5B-17: MINING OF PEAT:

Mining of peat, as defined in Minnesota Statutes Annotated sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes Annotated sections 93.44 to 93.51, are satisfied.

8-5B-18: WATER SUPPLY:

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

8-5B-19: SEWAGE TREATMENT:

A. Required:

Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

1. **Public System:** Publicly-owned sewer systems must be used where available.
2. **Private System:** All private sewage treatment systems must meet or exceed 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 Ordinance.
3. **On-Site System:** On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in subsection 8-5B-5 of this Article.
4. **Evaluation of Site for Individual System:** All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsections B1 through B4, below, of this Section. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

B. Evaluation Criteria:

1. Depth to the highest known or calculated ground water table or bedrock;
2. Soil conditions, properties, and permeability;
3. Slope;
4. The existence of wetlands, local surface depressions, and rock outcrops;
5. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 8-2-4 of this Ordinance.

8-5B-20: PRIVATE STORAGE BUILDINGS

One private storage building may be allowed on a parcel which was legally created and which conforms to the lot standards and provisions of the zoning district in which it is located. Standards for private storage buildings are as follows:

- 1) The structure shall not be used as a residence
- 2) The structure shall not be serviced with sewer and/or water
- 3) The structure may be placed on either a temporary or permanent foundation
- 4) The structure's maximum square footage (foot print) is 5% of the total lot area or 1,500 square feet, whichever is less
- 5) Structure must meet all applicable setbacks for the zoning district in which it is located
- 6) The structure may not be used to house or support animals of any type
- 7) The structure cannot be used for any commercial and/or business uses including the storage of materials, vehicles or other items used for commercial or business purposes

- 8) May be located in Shoreland districts only
- 9) The private storage building must be of a design and workmanship consistent with the surrounding area
- 10) A Conditional Use Permit is required.

**ARTICLE C. RESOURCE PROTECTION OVERLAY DISTRICTS
(RP-WHP, RP-BIO, RP-AGG)**

8-5C-1: PURPOSE

8-5C-2: DESCRIPTION OF RESOURCE PROTECTION OVERLAY DISTRICTS

8-5C-3: RELATIONSHIP OF RESOURCE PROTECTION OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS

8-5C-4: PERMITTED, CONDITIONAL AND ACCESSORY USES

8-5C-5: SPECIFIC STANDARDS FOR RP-WHP RESOURCE PROTECTION OVERLAY DISTRICT – WELLHEAD PROTECTION

8-5C-6: SPECIFIC STANDARDS FOR RP-BIO RESOURCE PROTECTION OVERLAY DISTRICT – BIOLOGICALLY SIGNIFICANT AREAS

8-5C-7: SPECIFIC STANDARDS FOR RP-AGG RESOURCE PROTECTION OVERLAY DISTRICT – AGGREGATE RESOURCES

8-5C-1: PURPOSE:

The purpose of the Resource Protection Overlay Districts is to implement the following goals and polices of the Clay County 2002 Comprehensive Plan, the Clay County Comprehensive Local Water Management Plan, and the Wellhead Protection Plan:

A. **Comprehensive Plan Natural Resources Goal #1:** Identify, protect, and preserve the County’s high-quality natural, scenic, cultural and open space areas.

1. **Policy 2.** Develop strategies for the protection, preservation and/or acquisition of identified significant natural and historic areas, where appropriate, through a number of means...
2. **Policy 14.** Continue to work with the Soil and Water Conservation District to update and implement the County Water Plan.
3. **Policy 23.** Coordinate and cooperate with other local units of government in developing wellhead protection plans, including identifying appropriate land use and pollution mitigation measures in wellhead protection zones.

B. Water Plan Goals and Objectives:

1. **Goal:** Protect and improve the quality of surface water in the County
 - a. **Objective B.** Enforce existing regulations and develop new regulations to protect surface water resources.
2. **Goal:** Protect and preserve groundwater quality in the County.
 - a. **Objective B. Action 1.** Identify sensitive groundwater areas in the County and establish land use practices for those areas.
 - b. **Objective B. Action 5.** Initiate a land use ordinance to protect recharge areas of the Buffalo Aquifer.

C. Wellhead Protection Plan Implementation:

1. **Quality Goal:** Preserve and protect the quality of groundwater resources to assure continued safe and useable water supply.

2. **Measure A-1-2:** Require that new commercial businesses within the Wellhead Protection Area/Drinking Water Supply Management Area hook-up to municipal sewage treatment and water supply.
3. **Measure A-2-1:** Clay County adoption of sensitive areas map RHA-3 from the Department of Natural Resources Hydrogeologic Assessment completed in 2000.
4. **Measure A-2-2:** Propose land use zoning regulations to prevent placement of new underground storage tanks or bulk storage of hazardous materials within designated sensitive areas.
5. **Measure A-2-3:** Propose setback and land use regulations on existing gravel pits within the DWSMA.
6. **Measure A-2-4:** Prohibit expansion of existing and new gravel and mining operations within sensitive areas of the Buffalo Aquifer.
7. **Measure A-2-5:** Prohibit temporary and permanent asphalt plants within sensitive areas of the Buffalo Aquifer.
8. **Measure A-3-3:** Require construction of containment systems around dispensing areas and around above ground tanks larger than three hundred (300) gallons at new development sites within the Wellhead Protection Area/ Drinking Water Supply Management Area.

8-5C-2: DESCRIPTION OF RESOURCE PROTECTION OVERLAY DISTRICTS:

Three Resource Protection Overlay Districts are established by this Article each addressing the resource protection needs of a specific type of resource. The three districts and the resource they address are:

- A. **RP-WHP Resource Protection Overlay District – Wellhead Protection:** The Wellhead Protection Overlay District is intended to protect the City of Moorhead Wellhead Protection Area/Drinking Water Supply Management Area (DWSMA), including sensitive areas above the Buffalo Aquifer.
- B. **RP-BIO Resource Protection Overlay District – Biologically Significant Areas:** The Biologically Significant Areas Overlay District is intended to protect areas with biologically significant habitat as determined by the Minnesota Department of Natural Resources County Biological Survey. Many of these areas are under public ownership.
- C. **RP-AGG Resource Protection Overlay District – Aggregate Resources:** The Aggregate Resources Overlay District is intended to protect areas with existing significant aggregate resources as shown in the Clay County Aggregate Resources Inventory completed pursuant to Minnesota Statutes Chapter 84.94.

8-5C-3: RELATIONSHIP OF RESOURCE PROTECTION OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS:

The three Resource Protection districts are overlay districts. These districts overlay other underlying zoning districts such as the AG districts. The requirements of the overlay districts in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply. Two overlay districts may occur in the same area, for example significant biological resources may be present in a wellhead protection area. Where two overlay districts occupy the same area, the requirements that impose greater restrictions shall apply.

8-5C-4: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the Resource Protection Overlay Districts are those specified in Table 5-1. The uses listed for Resource Protection Overlay Districts in Table 5-1 preempt the uses listed for any base district underlying a Resource Protection Overlay District. All uses not listed shall be prohibited.

8-5C-5: SPECIFIC STANDARDS FOR RP-WHP RESOURCE PROTECTION OVERLAY DISTRICT – WELLHEAD PROTECTION:

The following specific standards shall apply in the RP-WHP Resource Protection Overlay District – Wellhead Protection and shall preempt any conflicting standards for any base district underlying the overlay district:

- A. Density and Dimensional Standards:** The density and dimensional standards in the RP-WHP overlay district shall be those standards in Section 8-5D-3A for the AG District minor subdivisions. Cluster subdivisions and major subdivisions shall not be allowed.
- B. Stormwater Management:** Stormwater management within the RP-WHP overlay district shall comply with Minnesota Pollution Control Agency Phase II National Pollutant Discharge Elimination System (NPDES) requirements.
- C. Fertilizer Use:** The application and use of lawn and garden fertilizer containing phosphorus shall be prohibited within the RP-WHP overlay district.
- D. Commercial Uses:** Allowed commercial uses within the RP-WHP overlay district shall be connected to public sewage treatment and water supply systems.
- E. Aggregate Mining:** Expansion of existing aggregate mining operations and permitting of new aggregate mining operations shall be prohibited within the RP-WHP overlay district.
- F. New Development Near Mines:** New structures and on-site sewage treatment systems shall be setback at least one-hundred fifty feet (150') from the top edge of an aggregate mining pit. New development on parcels adjacent to mining pits shall install a dike between any structures and the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.
- G. Above-Ground Storage Tanks:** A containment system of sufficient size to completely contain a one-hundred percent (100%) spill shall be designed and constructed around new above-ground storage tanks designed to contain more than three hundred (300) gallons within the RP-WHP overlay district.
- H. Underground Storage Tanks:** New underground storage tanks shall be prohibited within the RP-WHP overlay district.
- I. Hazardous Materials:** Bulk storage of hazardous materials shall be prohibited within the RP-WHP overlay district.

8-5C-6: SPECIFIC STANDARDS FOR RP-BIO RESOURCE PROTECTION OVERLAY DISTRICT – BIOLOGICALLY SIGNIFICANT AREAS:

The following specific standards shall apply in the RP-BIO Resource Protection Overlay District – Biologically Significant Areas and shall preempt any conflicting standards for any base district underlying the overlay district:

A. Maximum Allowed Density of Dwellings:

The maximum number of dwellings allowed per quarter-quarter section in the RP-BIO Resource Protection Overlay District – Biologically Significant Areas shall be one (1) provided that all of the dimensional standards and conditions in B. below, are met. Cluster subdivisions and major subdivisions shall not be allowed in the RP-BIO District.

B. Dimensional Standards for Residential Lots:

1. **Minimum Lot Size:** The minimum lot size shall be two (2) acres of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
2. **Minimum Road Frontage or Access Width:** The lot on which the additional allowed dwelling unit is located shall have a minimum of sixty-six feet (66') in direct road access owned in fee. Road access necessary to meet the requirements of this section shall not be met through an access easement.
3. **Yard Requirements for All New Dwellings:**
 - a. **Highway Setbacks:** As provided in Section 8-3-3 of this Chapter.
 - b. **Front Yard Width:** Two hundred feet (200') at building line.
 - c. **Rear Yard Setback:** Twenty-five feet (25'), except unattached accessory structures may be five feet (5') from the lot line.
 - d. **Side Yard Setback:** Fifteen feet (15') from the lot line, except unattached accessory structures may be ten feet (10') from the lot line.

C. **Site Plan Information Requirements:** A site plan shall be required to be submitted with all applications for development or building permits in the RP-BIO District. The site plan shall indicate the location of biologically significant areas as determined by the Clay County Biological Survey, such information to be provided to the applicant by the Clay County Planning Department. The site plan shall also show all proposed structures, proposed topographic changes and proposed area of vegetation removal.

D. **Site Design Criteria:** The applicant shall be responsible for insuring that structures, topographic changes and vegetation removal shall not adversely impact biologically significant areas. Structures, dirt moving activities and vegetation removal shall not occur within one-hundred feet (100') of any identified biologically significant areas.

E. **Land Use Notification:** No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP-CBS, RP-AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owner's expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Land use notification forms for the RP-BIO District shall inform the landowner that:

1. The land that is the subject of the permit or development is located within an area with significant biological resources where Clay County has determined that these are important resources.
2. The management of significant biological resources may include controlled burning of large areas. Such burning may produce smoke, dust, odor, light, and other off-site impacts.
3. If you live within an RP-BIO area, you should be prepared to accept inconveniences or

discomfort associated with management of biological resources as a normal and necessary aspect of living in an RP-BIO area.

8-5C-7: SPECIFIC STANDARDS FOR RP-AGG RESOURCE PROTECTION OVERLAY DISTRICT – AGGREGATE RESOURCES:

The following specific standards shall apply in the RP-AGG Resource Protection Overlay District – Aggregate Resources and shall preempt any conflicting standards for any base district underlying the overlay district:

- A. **Maximum Allowed Density of Dwellings:** The maximum number of dwellings allowed per quarter-quarter section in the RP-AGG Resource Protection Overlay District – Aggregate Resources shall be one (1) provided that the following dimensional standards is met:
 - 1. **Minimum Lot Size:** The minimum lot size shall be two (2) acres of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
- B. **Development Standards Near Mine Pits:** New structures and on-site sewage treatment systems shall be setback at least one-hundred fifty feet (150') from the top edge of an aggregate mining pit. New development on parcels adjacent to mining pits shall install a dike between any structures and the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.
- C. **Land Use Notification:** No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP-CBS, RP-AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owner's expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Aggregate land use notification forms shall inform the landowner that:
 - 1. The land that is the subject of the permit or development is located within an aggregate resource area where Clay County has determined that aggregate resources are important resources.
 - 2. Aggregate removal practices may be accompanied by noise, dust, odor, light, and other off-site impacts at any time of day and year.
 - 3. Aggregate removal uses are given preference over other residential uses in RP-AGG areas.
 - 4. If you live within an RP-AGG area, you should be prepared to accept inconveniences or discomfort associated with aggregate removal as a normal and necessary aspect of living in an RP-AGG area.
- D. **Compliance with CUP:** Aggregate operations shall comply with the requirements of the conditional use permit for the operation. New aggregate operations shall comply with the requirements in Section 8-6-11 of this Ordinance.

ARTICLE D. AGRICULTURAL GENERAL DISTRICT (AG)

8-5D-1: PURPOSE

8-5D-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

8-5D-3: LAND USE NOTIFICATION

8-5D-4: DENSITY AND DIMENSIONAL STANDARDS IN AG DISTRICTS

8-5D-1: PURPOSE

The purpose of the AG Agricultural General District is to implement the following goals and polices of the Clay County 2002 Comprehensive Plan:

A. Land Use Goal #2: Support the long-term protection of agriculture in the County.

1. **Policy 2.** Establish clear and distinct zoning districts outside Planned Urban Growth Areas that provide for long-term agriculture and limit residential density in the agricultural areas of the County.
2. **Policy 3.** Allow and promote density transfers to permit cluster design techniques for non-farm, residential development as a means to concentrate development in less agriculturally productive areas and preserve large tracts of farmland, while still allowing farmland owners to benefit from development.
3. **Policy 7.** Identify prime agricultural areas and develop effective strategies to ensure their preservation and viability.
4. **Policy 8.** Encourage the enrollment of prime agricultural areas in the state’s Agricultural Land Preservation Program and/or other federal, state or local conservation programs.

B. Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.

1. **Policy 1.** Prepare and adopt a land use plan that designates land use areas to ensure desirable land use patterns and minimize conflicts.
2. **Policy 8.** Strengthen the County’s land use ordinance related to feedlots in a manner that allows these uses in the agricultural areas, while protecting groundwater and surface water resources and mitigating potential adverse effects on surrounding properties.

8-5D-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the AG Agricultural General District are those specified in Table 5-1. All other uses shall be prohibited.

8-5D-3: LAND USE NOTIFICATION

No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the (AG, RP-CBS, RP-AGG) District shall be issued until the landowner reads and signs an (agricultural, biological, aggregate) land use notification and records it, at the owner’s expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Agricultural land use notification forms shall inform the landowner that:

- A. The land that is the subject of the permit or development is located in an agricultural area where Clay County has determined that agricultural uses are primary uses.
- B. Agricultural uses may be accompanied by noise, dust, odor, light, smoke, and other off-site impacts at any time of day and year.
- C. Agricultural uses may include new or expanded feedlots that conform to all state or federal standards, operation of machinery, storage and disposal of manure, and application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.
- D. Agricultural uses are given preference over other uses in agricultural areas.
- E. If you live near an agricultural area, you should be prepared to accept inconveniences or discomfort associated with agricultural practices as a normal and necessary aspect of living in agricultural areas.

8-5D-4: DENSITY AND DIMENSIONAL STANDARDS IN AG DISTRICTS

Landowners have four options for developing new residential dwellings in the AG Agricultural District: single-lot divisions of land; within a cluster subdivision; major subdivisions on wooded or marginal soils; or conditional use permit subdivisions. The density maximums and other requirements listed below shall be met for each of these development options.

A. Minor subdivisions/Single-lot divisions of land:

- 1. Maximum density:** Except as provided for in subsections B and C below, the maximum number of new dwellings allowed per quarter-quarter section in the AG Agricultural General District shall be one (1) provided that:
 - a. If there are no existing dwellings in the quarter-quarter section one (1) new dwelling is allowed; and
 - b. If there is one (1) existing dwelling in the quarter-quarter section one (1) new dwelling is allowed; and
 - c. If there are two (2) or more existing dwellings in the quarter-quarter then no new dwellings are allowed.
 - d. All of the dimensional standards and conditions in 2., and 3., below, shall be met for new dwellings.
- 2. Dimensional Standards for Residential Lots:**
 - a. **Minimum Lot Size:** The minimum lot size shall be one and one half (1 ½) acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
 - b. **Minimum Road Frontage or Access Width:** The lot on which the additional allowed dwelling unit is located shall have a minimum of sixty-six feet (66') in direct road access owned in fee. Road access necessary to meet the requirements of this section shall not be met through an access easement.
- 3. Yard Requirements for All New Dwellings:**
 - a. **Highway Setbacks:** As provided in Section 8-3-3 of this Ordinance.
 - b. **Front Yard Width:** Two hundred feet (200') at building line.
 - c. **Rear Yard Setback:** Twenty-five feet (25'), except unattached accessory structures may be

five feet (5') from the lot line.

- d. **Side Yard Setback:** Fifteen feet (15') from the lot line, except unattached accessory structures may be ten feet (10') from the lot line.

4. Site Location Limitation: It is preferred that site locations be limited to parcels or lots which are wooded with healthy and mature trees and not currently used for agricultural purposes, or are unsuitable for economical agricultural uses because of poor soils, rough topography or other natural features, however any site may be allowed.

B. Cluster Subdivisions: If a landowner chooses to develop a cluster subdivision in an AG Agricultural District, all of the following provisions shall be met.

1. Maximum Density: A cluster subdivision shall not exceed a maximum density of eight (8) dwellings per quarter section provided that:

- a. Any dwelling within the quarter section existing upon the date of the cluster subdivision application is submitted shall be deducted from the maximum density reducing the maximum by one for each existing dwelling.

2. Dimensional Standards for Residential Lots Within a Cluster Subdivision:

a. Minimum Lot Size:

- 1. The minimum lot size for lots served by on-site sewage treatment systems shall be one and one-half (1.5) acres of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
- 2. Lots served by centralized sewage treatment system and well may be smaller in size than the minimum in (1) above.

b. Maximum Lot Size: The maximum lot size shall not greater than two (2) acres.

3. Yard Requirements for All New Dwellings:

- a. **Highway Setbacks:** As provided in Section 8-3-3 of this Chapter.
- b. **Front Yard Width:** One hundred feet (100') at building line.
- c. **Rear Yard Setback:** Twenty-five feet (25'), except unattached accessory structures may be five feet (5') from the lot line.
- d. **Side Yard Setback:** Fifteen feet (15') from the lot line, except unattached accessory structures may be ten feet (10') from the lot line.

4. Review Process: Cluster subdivisions shall be processed according to the cluster subdivision provisions of Chapter 7 of this Ordinance.

5. Design: Cluster subdivisions shall be designed to cluster lots rather than align them in a linear pattern. Cluster subdivisions shall minimize the number of access points on existing public roadways. Cluster subdivisions with three or more lots shall be designed with an internal drive.

C. Major Subdivisions on Wooded or Marginal Soils: If a landowner chooses to develop a major subdivision on wooded or marginal soils as defined in subsection 4. below in an AG Agricultural District, all of the following provisions shall be met.

1. Maximum Number of Lots: The maximum number of residential lots allowed in a major subdivision in the AG Agricultural District shall not exceed sixteen (16).

2. **Review Process:** Major subdivisions shall be processed as and shall meet the major subdivision provisions of Chapter 7 of this Ordinance.
 3. **Site Location Limitation:** Site locations for major subdivisions shall be limited to parcels or lots which are wooded with healthy and mature trees and not currently used for agricultural purposes, or on parcels with a weighted average Crop Equivalent Rating (CER) of sixty-five (65) or less as established by Revised 2002 Productivity Factors and Crop Equivalent Ratings for Soils of Minnesota as published by the Minnesota Extension Service of the University of Minnesota.
 4. **Tree Removal Plan:** A tree removal plan shall be required as part of the subdivision application. The tree removal plan shall indicate all mature trees over six inches (6”) in diameter at a height of four feet (4’) that are proposed to be removed on a map showing the location, type and size of such trees. Maximum possible retention of mature trees shall be required. The plan shall describe methods that will be used to protect mature trees from damage during construction of roads and structures, such as root perimeter fencing and prevention of soil compaction.
 5. **Design:** Major subdivisions shall not be located on minimum maintenance roads and the number of access points on existing public roadways shall be minimized.
- D. **Conditional Use Permit Subdivisions:** If a landowner proposes a major subdivision in an AG District that is not a cluster subdivision meeting the provisions of Section 8-5D-3B, and is not proposed to be located on wooded or marginal soils as defined in Section 8-5D-3C.4. all of the following provisions shall be met.
1. **Maximum Number of Lots:** The maximum number of residential lots allowed in a conditional use permit subdivision in the AG Agricultural District shall not exceed sixteen (16).
 2. **Review Process:** Conditional use subdivisions shall be processed as both a conditional use and a major subdivision and shall meet the major subdivision provisions of Chapter 7 of this Ordinance. The conditional use permit shall not be granted until approval of the final subdivision plat is granted.
 3. **Design:** Major subdivisions shall not be located on minimum maintenance roads and the number of number of access points on existing public roadways shall be minimized.

ARTICLE E. AGRICULTURAL SERVICE CENTER DISTRICT (ASC)

8-5E-1: PURPOSE

8-5E-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

8-5E-3: DIMENSIONAL STANDARDS IN ASC DISTRICTS

8-5E-1: PURPOSE:

The purpose of the ASC Agricultural Service Center District is to implement the following goals and polices of the Clay County 2002 Comprehensive Plan:

- A. **Comprehensive Plan Land Use Goal #4:** Plan for the orderly, efficient growth of commercial and industrial development in the County through the application of appropriate zoning districts and regulation.
- B. **Comprehensive Plan Economic Development Goal #1:** Cooperatively utilize existing and new resources for economic growth in the County.
 - 1. **Policy 4.** Encourage value-added agricultural industries and businesses to locate in the County.
 - 2. **Policy 5.** Encourage commercial and industrial development that is ancillary to agricultural uses and/or supports the County's agricultural economy.

8-5E-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the ASC Agricultural Service Center District are those specified in Table 5-1. All other uses shall be prohibited.

8-5E-3: DIMENSIONAL STANDARDS IN ASC DISTRICTS

The following dimensional standards shall apply to structures and uses in ASC Agricultural Service Center Districts:

- A. **Minimum Lot Size:** One acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
- B. **Minimum Lot Width Regulations:**
 - 1. Residential: Two hundred feet (200') at front yard setback line.
 - 2. Commercial: None.
 - 3. Industrial: None.
- C. **Residential Yard Requirements:**
 - 1. **Highway Setbacks:** As provided in Section 8-3-3 of this Ordinance.
 - 2. **Side Yard Setback:** Fifteen feet (15') with the exception of unattached accessory structures may be ten feet (10') from the lot line.
 - 3. **Rear Yard Depth:** Twenty-five feet (25') with the exception of unattached accessory uses shall be five feet (5').
- D. **Private Garages and Storage Buildings Size Limitation:** Private garages and storage buildings

shall not exceed five percent (5%) of the total lot size excluding rights-of-way and setbacks.

- E. **Separation and Spacing Requirement:** All uses and structures shall be located at least two hundred feet (200') from any driveway affecting access to a dwelling and at least three hundred feet (300') from any dwelling unit.

ARTICLE F. URBAN EXPANSION DISTRICT (UED)

8-5F-1: PURPOSE

8-5F-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

8-5F-3: DENSITY AND DIMENSIONAL STANDARDS IN UED DISTRICTS

8-5F-4: ADDITIONAL REQUIREMENTS IN UED DISTRICTS

8-5F-1: PURPOSE:

The purpose of the UED Urban Expansion District is to implement the following goals and polices of the Clay County 2002 Comprehensive Plan:

- A. **Land Use Goal #1:** Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.
 - 1. **Policy 1.** Work with cities and townships within Clay County to identify Planned Urban Growth Areas that have the potential to be served with an appropriate range of public services in a cost effective manner within which efficient and orderly growth can be facilitated over the next 20 years.
 - 2. **Policy 5.** Discourage development from occurring at unsewered urban densities outside of cities until urban services can be provided in an orderly and efficient manner.
- B. **Land Use Goal #3:** Plan for orderly and efficient growth of residential development in the County.
 - 1. **Policy 1.** Encourage residential growth to occur in an orderly and compact manner in and around cities within the Planned Urban Growth Areas so that new developments can be effectively served by public utilities and the character and quality of the County's agricultural areas can be maintained and enhanced.
 - 2. **Policy 2.** Require urban overlay plats to be filed along with large-lot subdivisions within the Planned Urban Growth Areas.

8-5F-1.5: COMPOSITION OF THE UED URBAN EXPANSION DISTRICT

The UED Urban Expansion District is comprised of two (2) tiers, Tier 1 and Tier 2. UED Tier 1 encompasses the primary growth areas as determined by the Cities of Moorhead and Dilworth. UED Tier 2 encompasses the remainder of the areas located within the UED boundary.

8-5F-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in Tier 1 and Tier 2 of the UED Urban Expansion District are those specified in Table 5-1. All other uses shall be prohibited.

8-5F-3: DIMENSIONAL STANDARDS IN UED DISTRICTS

The following dimensional standards shall apply to structures and uses in Tier 1 and Tier 2 of the UED Urban Expansion Districts:

- A. **Maximum Density:** The maximum density in an UED Urban Expansion District shall be one (1) dwelling per one acre.
- B. **Minimum Lot Size:** The minimum lot size is one (1) acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
- C. **Urban Overlay Plat:** All development in Tier 1 and Tier 2 of the UED Urban Expansion District on parcels meeting the density and minimum lot size requirements in A., and B., above, shall be platted in conventional urban sized lots utilizing an urban overlay plat. Urban overlay plats shall conform to the following standards:
 - 1. **Location of Allowed Structures and Septic:** The allowed principal and all accessory structures shall be located on one of the platted lots. If necessary due to physical site limitations or soil conditions, on-site sewage treatment systems may be located on a platted lot adjacent to the lot where structures are located.
 - 2. **Overlay Lots Not Buildable:** Overlay platted lots shall not be considered buildable lots and zoning certificates shall be withheld until such time as public sewer and water are made available.
 - 3. **Urban Overlay Lot Dimensional Standards:** The urban overlay lots shall conform to the following dimensional standards, including setbacks, depending on the location of the lot within the UED:
 - a. **Within Tier 1:** If the area where an urban overlay plat is proposed lies within any city’s adopted growth area plan, the urban overlay plat shall conform to the growth area plan and all applicable policies and ordinances of the city.
 - b. **Within Tier 2:** If the area where an urban overlay plat is proposed does not lie within an area covered by a growth area plan, the urban overlay plat shall conform to the standards of the City of Moorhead’s RLD-1, Residential Low Density –1 District or the City of Dilworth’s residential zoning district nearest in distance to the proposed development. Proposed urban overlay plats that lie in an area that has the potential to be annexed into either the City of Moorhead or the City of Dilworth shall conform to the standards that would result in the highest density.

8-5F-4: ADDITIONAL REQUIREMENTS IN UED DISTRICTS

- A. **Community Septic Systems Allowed:** Community septic systems shall be allowed to serve development in both Tier 1 and Tier 2 of the UED.
- B. **Development Agreements Required:** A development agreement shall be required as part of the approval of an urban overlay plat. The development agreement shall include the following minimum terms:
 - 1. Conditions of subdivision approval
 - 2. Description of growth area plans, if any
 - 3. Anticipated date of provision of urban services
 - 4. Responsibility of landowner for payment for future services

ARTICLE G. HIGHWAY COMMERCIAL DISTRICT (HC)

8-5G-1: PURPOSE

8-5G-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

8-5G-3: DIMENSIONAL STANDARDS IN HC DISTRICTS

8-5G-1: PURPOSE:

The purpose of the HC Highway Commercial District is to implement the following goals and polices of the Clay County 2002 Comprehensive Plan:

- A. **Comprehensive Plan Land Use Goal #1:** Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.
- B. **Comprehensive Plan Land Use Goal #4:** Plan for the orderly, efficient growth of commercial and industrial development in the County through the application of appropriate zoning districts and regulation.
 1. **Policy 2.** Encourage new commercial and industrial developments that do not require public sewer and water to locate within the Planned Urban Growth Areas in locations with adequate road service.
- C. **Land Use Goal #5.** Plan land uses and implement standards to minimize land use conflicts.
 1. **Policy 6.** Encourage the location of commercial and industrial development in areas that avoid adverse impacts on residential areas.
 2. **Policy 7.** Locate and design industrial and commercial development to avoid truck traffic through residential or other potentially adversely affected areas.

8-3G-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the HC Highway Commercial District are those specified in Table5-1. All other uses shall be prohibited.

8-3G-3: DIMENSIONAL STANDARDS IN HC DISTRICTS

- A. **Minimum Lot Size:** The required minimum lot area for permitted and conditional uses of this District shall be the area necessary to meet the stipulated space requirements set forth for the particular use in this Ordinance.
- B. **Yard Requirements:**
 1. **Minimum Lot Width:** Every lot shall have a width of not less than one hundred feet (100')

abutting a public right of way.

2. **Front Yard Regulations:** There shall be a front yard setback of not less than fifty feet (50'). Where a lot is located at the intersection of two (2) or more roads or highways, there shall be front yard setback on each road or highway side of the lot.
 3. **Rear Yard Depth:** There shall be a rear yard having a depth of not less than forty feet (40').
 4. **Side Yard Width:** There shall be a side yard having a width of not less than twenty-four feet (24') from each side of the building to the side yard lot line. No building shall be located within thirty feet (30') of any side lot line abutting a lot located in any AG or UED District.
- C. **Lot Coverage Regulations:** Not more than thirty percent (30%) of the lot area shall be occupied by buildings.
- D. **Access to Public Right of Way:** No lot in the HC Highway Commercial District may have a building structure upon it unless it has access to a public right of way; provided, that direct access from the front yard of the lot to a principal arterial shall not be permitted.

ARTICLE H. LIMITED HIGHWAY COMMERCIAL (LHC)

8-5H-1: PURPOSE

8-5H-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

8-5H-3: DIMENSIONAL STANDARDS IN LHC DISTRICTS

8-5H-4: ADDITIONAL STANDARDS IN LHC DISTRICTS

8-5H-1: PURPOSE:

The limited highway commercial in sensitive areas district is intended to provide a zoning district that will permit the conduct of certain highway oriented businesses which do not pose a threat to the environment by storing, transferring, or distributing hazardous materials including, but not limited to, chemicals, fertilizers, and petroleum products. The limited highway commercial in sensitive areas district would apply to those areas of the county where it is necessary and desirable because of the nature of the soils and water resources to protect sensitive areas including, but not limited to, aquifers, wetlands, surface waters and prairies and to preserve and promote the use of land for limited commercial purposes in order to preserve and protect such land from encroachment by development that may cause contamination by petroleum products and/or other hazardous materials.

8-5H-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in the LHC Limited Highway Commercial District are those specified in Table 5-1. All other uses shall be prohibited.

8-5H-3: DIMENSIONAL STANDARDS IN LHC DISTRICTS

- A. **Minimum Lot Size:** The required minimum lot area for permitted and conditional uses of this District shall be the area necessary to meet the stipulated space requirements set forth for the particular use in this Ordinance.
- B. **Yard Requirements:**
 - 1. **Minimum Lot Width:** Every lot shall have a width of not less than one hundred feet (100') abutting a public right of way.
 - 2. **Front Yard Regulations:** There shall be a front yard setback of not less than fifty feet (50'). Where a lot is located at the intersection of two (2) or more roads or highways, there shall be front yard setback on each road or highway side of the lot.
 - 3. **Rear Yard Depth:** There shall be a rear yard having a depth of not less than forty feet (40').
 - 4. **Side Yard Width:** There shall be a side yard having a width of not less than twenty-four feet (24') from each side of the building to the side yard lot line. No building shall be located within thirty feet (30') of any side lot line abutting a lot located in any AG, or UED District.
- C. **Lot Coverage Regulations:** Not more than thirty percent (30%) of the lot area shall be occupied by buildings.
- D. **Access to Public Right of Way:** No lot in the LHC Limited Highway Commercial District may have a building structure upon it unless it has access to a public right of way; provided, that direct access

from the front yard of the lot to a principal arterial shall not be permitted.

8-5H-4: ADDITIONAL STANDARDS IN LHC DISTRICTS

- A. Stormwater Management: Stormwater management within the RP-WHP overlay district shall comply with Minnesota Pollution Control Agency Phase II National Pollutant Discharge Elimination System (NPDES) requirements.
- B. Fertilizer Use: The application and use of lawn and garden fertilizer containing phosphorus shall be prohibited within the RP-WHP overlay district.
- C. Commercial Uses: Allowed commercial uses within the RP-WHP overlay district shall be connected to an onsite holding tank sewage treatment system to be designed and constructed to meet certification standards or public sewage treatment standards.
- D. Above-Ground Storage Tanks: A containment system of sufficient size to completely contain a one-hundred percent (100%) spill shall be designed and constructed around new above-ground storage tanks designed to contain more than three hundred (300) gallons within the RP-WHP overlay district.
- E. Underground Storage Tanks: New underground storage tanks, except those associated with onsite sewage treatment, shall be prohibited within the RP-WHP overlay district.
- F. Hazardous Materials: Bulk storage of hazardous materials, except those materials used specifically as heating fuel for a permitted use, shall be prohibited within the RP-WHP overlay district.

ARTICLE I. LANDING FIELD OVERLAY DISTRICT (LF)

8-5I-1: INTENT

8-5I-2: STRUCTURE AND USE REGULATIONS

8-5I-3: AIRPORT HAZARD ZONING MAP AND HEIGHT LIMITATIONS

8-5I-1: INTENT:

The LF Landing Field Overlay District is intended to prevent the establishment of air space obstructions in landing field approaches through height restrictions and other development controls. The requirements of the LF Landing Field Overlay District in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply.

8-5I-2: STRUCTURE AND USE REGULATIONS:

The following structure and use regulations apply within the LF Landing Field Overlay District:

- A. **Additional Permitted Uses:** In addition to uses permitted in the underlying zoning districts, public landing fields, airports and all necessary accessory uses in accordance with section 14 MCAR 1.3007, pt. A and B (1-14) of the Minnesota Code of Agency Rules, Department of Transportation, Aeronautics are permitted.
- B. **Use Restrictions:** Notwithstanding any other provisions of this Ordinance, no use may be made of land within any of the established airport hazard zones in such manner as to:
 - 1. Create electrical interference with radio communication between airport lights and others;
 - 2. Result in glare in the eyes of flyers using the airport;
 - 3. Impair visibility in the vicinity of the airfield; or
 - 4. Otherwise endanger the landing, take off, or maneuvering of aircraft.
- C. **Location of Public Assembly Uses:** The construction and use of facilities for places of public assembly, such as theaters, schools, churches, and hospitals, are prohibited to a distance of eleven thousand feet (11,000') from the ends of the runway pavements as designated on airport hazard zoning maps.

8-5I-3: AIRPORT HAZARD ZONING MAP AND HEIGHT LIMITATIONS:

In the LF Landing Field Overlay District, the following building height limits shall apply:

- A. **Airport Hazard Zoning Maps:** When it is found that airport hazards endanger the lives and property of users of airports and occupants of land in their vicinity; and also, if of the obstructive type, in effect reduce the size of the areas available for landing, take off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airports and the public investment therein, the Board of County Commissioners, on the recommendation of the Planning Commission acting as the County Airport Zoning Commission, may adopt zoning maps to regulate the use of land and the height of structures and trees within airport hazard areas. Such airport hazard zoning maps as shall be adopted by resolution shall become a part of this Ordinance.

CLAY COUNTY, MINNESOTA

ORDINANCE NO. 2017- /

AN ORDINANCE OF THE COUNTY OF CLAY, STATE OF MINNESOTA AMENDING THE CLAY COUNTY CODE, TITLE 8, CHAPTER 5-F, USE TABLE 5-1, AND URBANIZED AREA MAP ESTABLISHING TWO TIERS TO THE CLAY COUNTY URBAN EXPANSION DISTRICT

WHEREAS, the County of Clay, State of Minnesota (“County”) is a statutory County duly organized and existing under Article XII of the Minnesota Constitution; and

WHEREAS, pursuant to Minnesota Statute Chapter 394 and specifically § 394.21, the County has the power and authority to conduct and implement planning activities; and

WHEREAS, the County has, by ordinance, and pursuant to Minnesota Statute Chapter 394, adopted Title 8 of the Clay County Code regarding land use, zoning and development (“Development Code”);

WHEREAS, the County has undertaken a process to amend the Development Code provisions related to areas in Clay County which have been identified to be primary areas for future urban growth (Urban Expansion District) and to establish two tiers of zoning controls related to those areas;

WHEREAS, the County hereby finds and determines that the proposed two-tier Urban Expansion Zoning District is appropriate and necessary to the function and efficient operation of the County and to ensure the health, safety, morals, and general welfare of the County.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLAY, STATE OF MINNESOTA HEREBY ORDAINS AS FOLLOWS:

Section 1. Adopt the Development Code Amendments set forth within Exhibits A, B, and C to Title 8 of the Clay County Code. The County Hereby adopts the proposed amendments, attached hereto and incorporated herein as Exhibits A, B, and C.

Section 2. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 3. Effective Date. This Ordinance shall become effective and be in force immediately upon final passage, consistent with Minnesota Statute § 375.51.

ADOPTED BY THE CLAY COUNTY BOARD OF COMMISSIONERS

This 7th day of February, 2017.



KEVIN CAMPBELL, CLAY COUNTY BOARD OF COMMISSIONERS

ATTEST: 

BRIAN BERG, CLAY COUNTY ADMINISTRATOR

EXHIBIT A

ARTICLE F. URBAN EXPANSION DISTRICT (UED)

8-5F-1: PURPOSE

8-5F-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

8-5F-3: DENSITY AND DIMENSIONAL STANDARDS IN UED DISTRICTS

8-5F-4: ADDITIONAL REQUIREMENTS IN UED DISTRICTS

8-5F-1: PURPOSE:

The purpose of the UED Urban Expansion District is to implement the following goals and polices of the Clay County 2002 Comprehensive Plan:

- A. **Land Use Goal #1:** Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.
1. **Policy 1.** Work with cities and townships within Clay County to identify Planned Urban Growth Areas that have the potential to be served with an appropriate range of public services in a cost effective manner within which efficient and orderly growth can be facilitated over the next 20 years.
 2. **Policy 5.** Discourage development from occurring at unsewered urban densities outside of cities until urban services can be provided in an orderly and efficient manner.
- B. **Land Use Goal #3:** Plan for orderly and efficient growth of residential development in the County.
1. **Policy 1.** Encourage residential growth to occur in an orderly and compact manner in and around cities within the Planned Urban Growth Areas so that new developments can be effectively served by public utilities and the character and quality of the County's agricultural areas can be maintained and enhanced.
 2. **Policy 2.** Require urban overlay plats to be filed along with large-lot subdivisions within the Planned Urban Growth Areas.

8-5F-1.5: COMPOSITION OF THE UED URBAN EXPANSION DISTRICT

The UED Urban Expansion District is comprised of two (2) tiers, Tier 1 and Tier 2. UED Tier 1 encompasses the primary growth areas as determined by the Cities of Moorhead and Dilworth. UED Tier 2 encompasses the remainder of the areas located within the UED boundary.

8-5F-2: PERMITTED, CONDITIONAL AND ACCESSORY USES

Permitted, conditional and accessory uses in **Tier 1 and Tier 2** of the UED Urban Expansion District are those specified in Table 5-1. All other uses shall be prohibited.

8-5F-3: DIMENSIONAL STANDARDS IN UED DISTRICTS

The following dimensional standards shall apply to structures and uses in **Tier 1 and Tier 2 of the** UED Urban Expansion District:

- A. **Maximum Density:** The maximum density in **Tier 1 and Tier 2 of the** UED Urban Expansion District shall be one (1) dwelling per one acre.

- B. **Minimum Lot Size:** The minimum lot size is one (1) acre of which twenty thousand (20,000) square feet, exclusive of road frontage right-of-way, shall be above the base flood elevation (100 year).
- C. **Urban Overlay Plat:** All development in **Tier 1 and Tier 2 of the** UED Urban Expansion District on parcels meeting the density and minimum lot size requirements in A., and B., above, shall be platted in conventional urban sized lots utilizing an urban overlay plat. Urban overlay plats shall conform to the following standards:
1. **Location of Allowed Structures and Septic:** The allowed principal and all accessory structures shall be located on one of the platted lots. If necessary due to physical site limitations or soil conditions, on-site sewage treatment systems may be located on a platted lot adjacent to the lot where structures are located.
 2. **Overlay Lots Not Buildable:** Overlay platted lots shall not be considered buildable lots and zoning certificates shall be withheld until such time as public sewer and water are made available.
 3. **Urban Overlay Lot Dimensional Standards:** The urban overlay lots shall conform to the following dimensional standards, including setbacks, depending on the location of the lot within the UED:
 - a. **Within Tier 1 a Planned Growth Area:** If the area where an urban overlay plat is proposed lies within any city's adopted growth area plan, the urban overlay plat shall conform to the growth area plan and all applicable policies and ordinances of the city.
 - b. **Within Tier 2 Outside of a Planned Growth Area:** If the area where an urban overlay plat is proposed does not lie within an area covered by a growth area plan, the urban overlay plat shall conform to the standards of the City of Moorhead's RLD-1, Residential Low Density -1 District or the City of Dilworth's residential zoning district nearest in distance to the proposed development. Proposed urban overlay plats that lie in an area that has the potential to be annexed into either the City of Moorhead or the City of Dilworth shall conform to the standards that would result in the highest density.

8-5F-4: ADDITIONAL REQUIREMENTS IN UED DISTRICTS

- A. **Community Septic Systems Allowed:** Community septic systems shall be allowed to serve development in **both Tier 1 and Tier 2 of** the UED.
- B. **Development Agreements Required:** A development agreement shall be required as part of the approval of an urban overlay plat. The development agreement shall include the following minimum terms:
1. Conditions of subdivision approval
 2. Description of growth area plans, if any
 3. Anticipated date of provision of urban services
 4. Responsibility of landowner for payment for future services

Exhibit B

Clay County Development Code
Zoning Districts – Chapter 5

Table 5-1 Permitted, Conditional, Interim and Accessory Uses Allowed in Each Zoning District

Use Type	Stds	FW	FF	GFP	SP LD	SP	RD	RP- WHP	RP- BIO	RP- AGG	AG	ASC	UED (T1)	UED (T2)	HC	LHC	
A. Agricultural and Related Uses																	
Commercial agriculture including the accessory raising of less than fifty (50) animal units of livestock or poultry and their associated manure storage areas	FW SL	P	Uses are those allowed in the base district – See Flood Fringe District for standards	P	P	P	P	P	P		P	P		<u>CP</u>	P	P	
Farm buildings not used as dwellings						P	P	P	P	P		P		<u>P</u>	<u>P</u>		
Farm drainage and irrigation systems									<u>P</u>	<u>P</u>		<u>P</u>					
Forest management	FW	P			P	P	P	P	P	P	P	P	P	<u>P</u>	P	P	P
Animal feedlots or poultry lots of <u>50 or more than fifty (50)</u> animal units of livestock or poultry and <u>less than five hundred (500) animal units</u>	SL S						C			C	C	<u>CP</u>					
Animal feedlots or poultry lots of <u>five hundred (500) or more animal units</u>	SL S									<u>€</u>	<u>€</u>	<u>€</u>					
Use Type	Stds	FW	FF	GFP	SP LD	SP	RD	RP- WHP	RP- BIO	RP- AGG	AG	ASC	UED (T1)	UED (T2)	HC	LHC	
B. Residential and Related Uses																	
Single-family dwelling			Uses are those allowed in the base district – See Flood Fringe District for standards		P	P	P	P	P	P	P	P	<u>P</u>	P			
Two-family dwelling (in cluster or subdivision only)	S											P	P		P		
Bed and Breakfast in primary residence	S								I	I	I	I	I	<u>I</u>	I		
Controlled access lot	SL				P	P	P										
Day care in a primary residence, adult or child	S				P	P	P	P	P	P	P	P	P	<u>P</u>	P		
Facility for supervised residential program up to six residents	S				P	P	P	P				P	P	<u>P</u>	P		
Facility for supervised residential program with more than six residents	S													<u>C</u>	C		
Second dwelling on the parcel to be used by parent(s), grandparent(s), children, sibling(s) by blood, marriage, adoption, or other special relationships.	S								I	I	I	I	I	<u>I</u>	I		
Use Type	Stds	FW	FF	GFP	SPL D	SP	RD	RP- WHP	RP- BIO	RP- AGG	AG	ASC	UED (T1)	UED (T2)	HC	LHC	

Clay County Development Code
Zoning Districts – Chapter 5

Table 5-1 Permitted, Conditional, Interim and Accessory Uses Allowed in Each Zoning District

Use Type	Stds	FW	FF	GFP	SP LD	SP	RD	RP-WHP	RP-BIO	RP-AGG	AG	ASC	UED (T1)	UED (T2)	HC	LHC	
C. Recreational Uses, Public and Private																	
Campground	FW S	C	Uses are those allowed in the base district – See Flood Fringe District for standards	C		C	C				C			<u>C</u>	C		
Golf course or driving range	FW											C		<u>C</u>	<u>C</u>		
Marinas and boat rentals	FW	C			C			C									
Park	FW	P			P	C	C	C	C	C		P	P	<u>P</u>	P		
Picnic ground	FW	P			P				C	C					<u>C</u>		
Hunting or game reserve	FW	P			P				P	P	P	P					
Outdoor Sshooting preserve, shooting range, archery range	FW S	P			P						C	C					
Indoor shooting range, archery range					<u>P</u>						<u>C</u>	<u>C</u>		<u>C</u>	<u>C</u>		
Trails, motorized and non-motorized	FW	P			P	P	P	P	P	C	P	P	P	<u>C</u>	P		
Wildlife and nature preserve	FW	P			P	P	P	P	P	P	P	P		<u>P</u>	<u>P</u>		
Occasional special event or short-term use		I		I	I	I	I	I	I	I	I	I	<u>I</u>	I	I	I	
D. Civic, Educational and Institutional Uses																	
Cemetery			Uses allowed in base district – See FF Dist. for standards							C	C	C		C			
Designated historic site	FW	P			P	C	C	C	C	C	C	P	C		C	C	C
Government buildings and facilities									P		C	C	P	<u>P</u>	P	P	P
Religious institutions w/o schools or residences						C	C	C	C			C	P	<u>P</u>	P		
Schools, public or private												C	C	<u>C</u>	P		
E. Commercial and Industrial Uses																	
Adult entertainment uses	S		See FF Dist.												C	C	
Agricultural service establishments	S											C	P		<u>C</u>		
Airport, private	S						C					C					
Asphalt batch plant and uses associated with such facilities	S										I	I				I	

Clay County Development Code
Zoning Districts – Chapter 5

Table 5-1 Permitted, Conditional, Interim and Accessory Uses Allowed in Each Zoning District

Use Type	Stds	FW	FF	GFP	SP LD	SP	RD	RP-WHP	RP-BIO	RP-AGG	AG	ASC	UED (T1)	UED (T2)	HC	LHC
Automobile and truck service facility including sleeping facilities for truck operators															P	C
Automobile, truck, trailer, and garden and farm equipment sales															P	C
Bar or cocktail lounge, dance hall or nightclub			See 2011 County Board Resolution									C			P	C
Bowling alley, pool hall or billiard parlor													C		P	C
Building material sales yard	S											C			P	C
Extractive uses including aggregate and peat mining	S								I	I	I					
Farm produce stand / farmers' market					I	I	I	I	I	I	I	I	I	I	I	I
Kennels	S				I					I	I	I		I	I	I
Landscape, nursery and garden store												P		P	P	C
Motel or motor hotel												C			P	C
Motor fuel station												C			P	
Motor sports facilities											C				C	
Occasional special event or short term use ??																
Office												P			P	C
Outdoor recreation facilities – non-motorized	FW	C		C	C	C	C	C		C	P	P	C	C	P	C
Redi-mix cement plant and uses associated with such facilities	S									I	I				I	I
Restaurants, with or without drive-in												C			P	C
Retail or commercial business												P			P	C
Retreat Center	S						C		C	C	C			C		
Salvage yards	S										C				C	
Service business												P			P	C
Temporary tire and/or waste collection and/or recycling operations								I	I	I	I	I		I	I	I
Wholesale business, and warehousing, and storage units	S										C	P		C	P	C

Table 5-1 Permitted, Conditional, Interim and Accessory Uses Allowed in Each Zoning District

Use Type	Stds	FW	FF	GFP	SP LD	SP	RD	RP- WHP	RP- BIO	RP- AGG	AG	ASC	UED (T1)	UED (T2)	HC	LHC	
F. Public Service and Utility Uses																	
Essential services	G		Uses are those allowed in the base district – See Flood Fringe District for standards					C	C	C	C	C	C	C	C	C	
Landfill, public												P					
Landfill, demolition wastes only												C					
Communication or other towers	S								C		C	C	C	C	C	C	C
Meteorological towers																	
Radio and television transmission tower, including station office and studio									C		C	C			C	C	C
Railroad, street, bridge, utility transmission line, or pipeline	FW	C			C	P	P	P	P	P	P	P	P	P	P	P	P
Towers exclusively for governmental or national defense purposes	FW S	C			C	C	C	C	C	C	C	C	C	C	C	C	C
G. Structures and Uses Accessory to Principal Uses																	
Aboveground storage of petroleum products intended for direct use by a permitted activity (i.e., fuel oil for heating) (1100 gal limit in AG District)	FW S		Uses are those allowed in the base district – See Flood Fringe District for standards								P					C	
Automobiles, storage of	S	P			P	P	P	P	P	P	P	P	P		P	P	P
Energy systems associated with a principal use (i.e. solar collectors/wind energy systems)	S					P	P	P	P	P	P	P	P		P	P	P
Farm stand, seasonal ag product sales	S								P	P	P	P			P		
Garage, private	FW	P			P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupation, Permitted	G					P	P	P	P	P	P	P	P	P	P		
Home occupation, Conditional	G							I	I	I	I	I		I	I		
Keeping Animals on Residential Parcels	S	P			P	P	P	P	P	P	P	P	P		P		
Horse Boarding / Stables									I	I	I	I	I		I		
Parking and loading areas	FW G	P			P	P	P	P	P	P	P	P	P		P	P	P
Placement of fill	FW SL S	C	Uses are those allowed in the	C	C	C	C	P	P	P	P	P	P	P	P	P	
Playhouses						P	P	P	P	P	P	P	P	P	P		

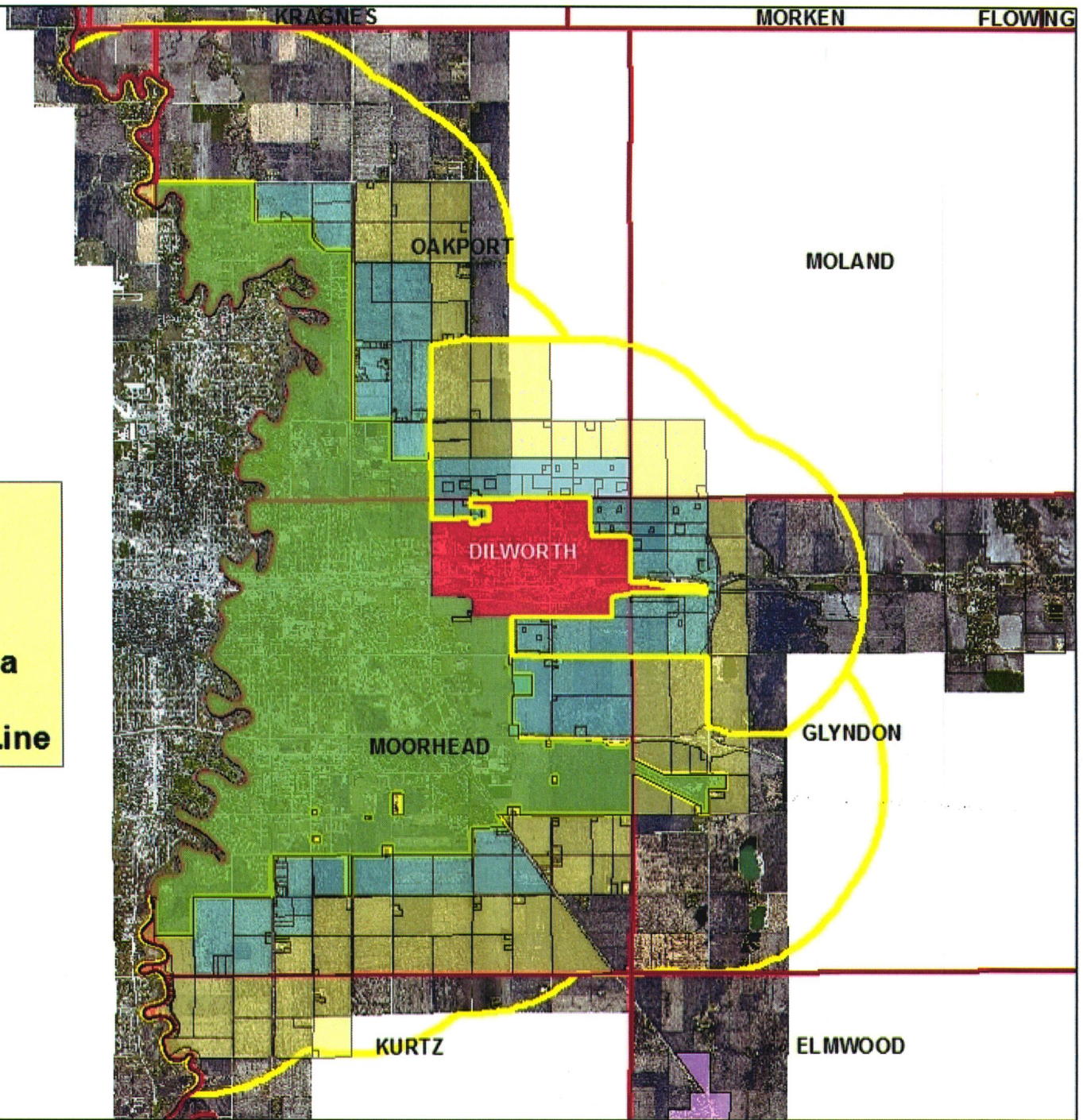
Clay County Development Code

Zoning Districts – Chapter 5

Table 5-1 Permitted, Conditional, Interim and Accessory Uses Allowed in Each Zoning District

Use Type	Stds	FW	FF	GFP	SP LD	SP	RD	RP- WHP	RP- BIO	RP- AGG	AG	ASC	<u>UED (T1)</u>	<u>UED (T2)</u>	HC	LHC
Roadside stands for the sale of agricultural produce grown on the site	S				P	P		P	P	P	P	P	<u>P</u>	<u>P</u>		
Storage buildings (accessory, non-commercial)					P	P	P	P	P	P	P	P		P	P	P
Storage yards for equipment, machinery, or materials accessory to a commercial use	FW S	C		C					C	C	C	C		C	C	
Swimming pool, fenced	S							P	P	P	P	P	<u>P</u>	P		
Travel trailers and travel vehicles	FW S	C		C	P	P	P	P	P	P	P	P		P	P	P
Yard waste composting site (community or neighborhood)				I	I	I	I	I	I	I	I	I	<u>I</u>	I	I	I
Levee, dike or floodwall built by a unit of government	FW	P		P	P	P	P	P	P	P	P	P	<u>P</u>	P	P	P
Levee, Farmstead Ring	FW	C		C	C	C	C	C	C	C	C	C	<u>C</u>	C	C	C
Use Type	Stds	FW	FF	GFP	SP LD	SP	RD	RP- WHP	RP- BIO	RP- AGG	AG	ASC	<u>UED (T1)</u>	<u>UED (T2)</u>	HC	LHC
Temporary use	S				I	I	I			I	I	I	<u>I</u>	I	I	I

EXHIBIT C



LEGEND:

UED Tier 1 = Light Blue Area

UED Tier 2 = Light Yellow Area

Extent of ET Areas = Yellow Line



Map produced by:
Clay County Planning & Environmental Programs
807 N 11th Street
Moorhead, MN 56560



**CHAPTER 6.
STANDARDS FOR SPECIFIC LAND USES**

8-6-1: PURPOSE

8-6-2: APPLICABILITY

AGRICULTURAL AND RELATED USES

8-6-3: STANDARDS FOR ANIMAL FEEDLOTS

RESIDENTIAL AND RELATED USES

8-6-4: STANDARDS FOR TWO-FAMILY DWELLINGS

8-6-5: STANDARDS FOR DAY CARE IN A PRIMARY RESIDENCE, ADULT OR CHILD

8-6-6: STANDARDS FOR SUPERVISED RESIDENTIAL PROGRAMS

8-6-7: STANDARDS FOR MANUFACTURED HOMES

RECREATIONAL USES, PUBLIC AND PRIVATE

8-6-8: STANDARDS FOR CAMPGROUNDS

8-6-9: STANDARDS FOR SHOOTING RANGE

COMMERCIAL AND INDUSTRIAL USES

8-6-10: STANDARDS FOR ALL COMMERCIAL AND INDUSTRIAL USES

8-6-11: STANDARDS FOR ADULT USES

8-6-12: STANDARDS FOR AGRICULTURAL SERVICE ESTABLISHMENTS

8-6-13: STANDARDS FOR AIRPORTS, PRIVATE

8-6-14: STANDARDS FOR ASPHALT BATCH PLANTS AND ASSOCIATED USES

8-6-15: STANDARDS FOR BUILDING MATERIAL SALES YARDS:

8-6-16: STANDARDS FOR EXTRACTIVE USES

8-6-17: STANDARDS FOR KENNELS

8-6-18: STANDARDS FOR REDI-MIX CEMENT PLANT AND ASSOCIATED USES

8-6-19: STANDARDS FOR SALVAGE YARDS

8-6-20: STANDARDS FOR RETREAT CENTERS

PUBLIC SERVICE AND UTILITY USES

8-6-21: STANDARDS FOR TOWERS

STRUCTURES AND USES ACCESSORY TO PRINCIPAL USES

8-6-22: STANDARDS FOR ABOVE GROUND STORAGE OF PETROLUUM PRODUCTS

8-6-23: STANDARDS FOR OUTDOOR STORAGE OF AUTOMOBILES

8-6-24: REPEALED BY ORDINANCE 2009-2

8-6-25: STANDARDS FOR FARM STANDS; SEASONAL AGRICULTURAL PRODUCT SALES

8-6-26: STANDARDS FOR HORSES IN PLATTED SUBDIVISIONS

8-6-27: STANDARDS FOR SWIMMING POOLS

8-6-28: STANDARDS FOR ACCESSORY TRAVEL TRAILERS OR TRAVEL VEHICLES

8-6-29: STANDARDS FOR STORAGE YARDS FOR EQUIPMENT, MACHINERY, OR MATERIALS ACCESSORY TO COMMERCIAL USES

TEMPORARY USES

8-6-30: STANDARDS FOR TEMPORARY USES

8-6-1: PURPOSE:

The standards in this chapter are established to supplement the general regulations in this Ordinance to address the unique characteristics and impacts of certain land uses.

8-6-2: APPLICABILITY:

The standards in this chapter apply to the uses listed below within the zoning districts in which they are allowed, whether the uses are permitted or conditional. The standards in this chapter for conditional uses shall apply in addition to the general criteria for conditional uses in Section 8-5-6 C of this Ordinance and all other applicable regulations. When granting a conditional use permit, the Planning Commission shall include the standards listed for uses in this Article as specific conditions of the permit.

AGRICULTURAL AND RELATED USES

8-6-3: STANDARDS FOR ANIMAL FEEDLOTS:

Animal feedlots in any district shall meet the following standards:

- A. **Compliance with State and Federal Regulations:** All feedlots shall comply with state and federal feedlot or confined animal feeding operation regulations.
- B. **Registration:** Feedlot owners shall provide proof that they are registered in accordance with Minnesota Pollution Control Agency rules 7020.0100 to 7020.1900.
- C. **Notification of County Planning Department:** Owners of newly established or expanding feedlots shall provide a copy of the registration required in B., above, to the Clay County Planning Department within five (5) days of registration.
- D. **Manure Storage:** Animal waste produced by an animal feedlot or stable facility shall not be stored within three hundred feet (300') of edge of a drainage ditch, wetland or public water.
- E. **Manure Spreading:** Application of manure shall be setback the following distances from dwellings, churches, campgrounds and any incorporated municipality:
 - a. **One hundred fifty feet (150')** if incorporated within **forty-eight (48)** hours.
 - b. **Three hundred feet (300')** if not incorporated
- F. **Standards for Feedlots within Shoreland Districts:**
 1. **New Feedlots:** New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred feet (300') from the ordinary high water level of all public waters basins; and
 2. **Modifications, Expansions:** Modifications or expansions to existing feedlots that are located within three hundred feet (300') of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
- G. **Permit for Feedlots with Under 50 Animal Units:** Feedlots with less than fifty (50) animal units shall obtain a permit from the Zoning Administrator verifying that requirements of this Ordinance are met. The permit application shall be accompanied by a site plan indicating structures and feeding areas, and by proof that the proposed feedlot meets state requirements.
 1. **Setbacks:** Animal feedlots of less than fifty (50) animal units and their associated manure storage

areas shall maintain the following setbacks:

Table 8-6-1 Required Structure Setbacks from Animal Feedlots

Use of structure on adjacent property	Setback required from animal feedlot with total confinement	Setback required from all other animal feedlots
Residence	1,000 feet	1,320 feet (1/4 mile)
All other structures	1,320 feet (1/4 mile)	2,000 feet

2. Additional Setbacks for New Feedlots:

- a. **Two (2)** miles from any incorporated community or **one-half (1/2)** mile from any platted subdivision.
- b. **One-hundred feet (100')** from property lines, rights of way and ditches (to include a 2 rod grass buffer strip adjacent to ditch).

3. **Responsibility:** Incorporating structure setbacks in Table 8-6-1 shall be the sole responsibility of the landowner proposing a new use whether it is the feedlot landowner or the landowner adjacent to an existing feedlot. New development must maintain the same setbacks from an existing feedlot as a new feedlot would be required to maintain from an existing development of the same type.

4. **Measurement:** The setbacks shall be measured horizontally and in a straight line, from the closest point of a structure, use, lagoon or district to the closest point of another structure, use, lagoon or district.

H. **Conditional Use Permit for Feedlots Over 49 Animal Units:** Feedlots with fifty (50) or more animal units shall require a conditional use permit and shall comply with the provisions in subsections A. through F., of this Section. Conditional feedlots shall not be permitted to have lesser setback than the requirements for smaller feedlots in subsection G.

RESIDENTIAL AND RELATED USES

8-6-4: STANDARDS FOR TWO-FAMILY DWELLINGS:

- A. **Location Limited:** Two-family dwellings shall be allowed only in approved cluster subdivisions or major subdivisions.
- B. **Density Calculation:** Two-family dwellings shall be counted as two dwelling units for density calculations.
- C. **Design:** Two-family dwellings shall have two dwelling units located within the same structure side-by-side or on separate floors.
- D. **Septics and Wells:** Two-family dwellings shall have shared septic systems and drinking water wells.

8-6-5: STANDARDS FOR DAY CARE IN A PRIMARY RESIDENCE, ADULT OR CHILD

- A. **In a Residence:** The day care shall be located within a primary residence.
- B. **Home Occupation:** An allowed day care in a primary residence shall be considered a home

occupation and shall meet the standards for home occupations in Section 8-3-7 A. or B. except the size limits in dwellings shall not apply. Day care may be allowed as a conditional home occupation.

- C. **Standards and Licensing:** A day care allowed under this section shall meet the requirements of Minnesota Rules Chapter 9502 and the operator shall obtain the required license specified in Minnesota Rules Chapter 9502.

8-6-6: STANDARDS FOR SUPERVISED RESIDENTIAL PROGRAMS:

- A. **Licensing:** The facility shall meet all state and federal license requirements.
- B. **In a Dwelling.** The facility must be located within an existing single-family detached dwelling or, if a new facility, in a dwelling meeting the density provisions of this Ordinance.

8-6-7: STANDARDS FOR MANUFACTURED HOMES IN A FLOOD HAZARD ZONE:

- A. **Placement:** The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in a Flood Hazard Zone will be treated as a new structure and may be placed only if located in the Flood Fringe District and elevated in compliance with Section 8-5A-7 of this Chapter.
- B. **Anchoring:** All manufactured homes must be securely anchored to an adequately anchored 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.
- C. **Nonexempt Recreational Vehicles:** Recreational vehicles, located in a Floodway, Flood Fringe or General Floodplain District, that do not meet the criteria specified in 8-26-2 (A) thru (D) must be located in the Flood Fringe District, and shall be subject to the provisions in Section 8-5A-7 relating to elevating and anchoring manufactured homes.

RECREATIONAL USES, PUBLIC AND PRIVATE

8-6-8: STANDARDS FOR CAMPGROUNDS:

- A. **Licensing:** The facility shall meet all state and federal license requirements.
- B. **Mobile homes prohibited.** No mobile homes shall be allowed in campgrounds.
- C. **Year-round residential use prohibited.** Residential use of camping vehicles, except as permitted for a campground owner or caretaker, shall be prohibited from November 1 to April 1.

8-6-9: STANDARDS FOR SHOOTING RANGE

- A. **Performance Standards:** Shooting ranges shall meet the noise and performance standards in Minnesota Statutes 87A.
- B. **Nonconforming Shooting Ranges:** Shooting ranges that do not meet the performance standards in Minnesota Statutes 87A shall be considered nonconforming shooting ranges. Nonconforming shooting ranges shall be allowed to continue and conduct shooting activities within the range's lawful property boundary as of May 28, 2005 provided that the shooting range remains in compliance with

the noise and shooting range performance standards in Minnesota Statutes 87A.

- C. **Authorized Activities:** Shooting ranges that meet the performance standards in Minnesota Statutes 87A shall be allowed to engage in the following authorized activities within the property boundaries of the range:
1. **Discharge of Firearms:** Operate the range and conduct activities involving the discharge of firearms.
 2. **Membership:** Expand or increase its membership or opportunities for public participation related to the primary activity as a shooting range.
 3. **Meet Standards:** Make those repairs or improvements desirable to meet or exceed requirements of shooting range performance standards.
 4. **Activities:** Increase events and activities related to the primary activity as a shooting range.
 5. **Time of Operations:** Conduct shooting activities and discharge firearms daily between 7:00 a.m. and 10:00 p.m.
 6. **Purchase Additional Land:** Acquire additional lands to be used for buffer zones or noise mitigation efforts or to otherwise comply with this chapter.
- D. **Mitigation Area:** A mitigation area is established for a distance of seven hundred and fifty feet (750') from the perimeter property line of an outdoor shooting range. Within the mitigation area, the following provisions apply:
1. **Development Prohibited:** No change in use, new development, or construction of a structure shall be approved for any portion of property within the mitigation area.
 2. **Exemption for Existing Development:** Uses, development and structures in existence or for which approval has been granted by October 1, 2005 are exempt from the mitigation area requirements.
 3. **Exemption if Mitigation Provided:** A change in use, new development, or construction of a structure may occur within the mitigation area if the person seeking the approval agrees to provide any mitigation necessary to keep the shooting range in compliance with the performance standards. The mitigation agreement shall be signed by the person seeking approval and the shooting range. If no mitigation is required to keep the shooting range in compliance with the performance standards, an agreement shall be signed by the person seeking approval and the shooting range stating that mitigation is not required. Agreements required under this section shall be in written form and subject to approval by the Clay County Board. Failure to obtain an agreement required under this section shall exempt the shooting range from being found out of compliance with the performance standards in relation to the property or person where the agreement was not obtained if the failure to provide mitigation is the sole reason for the shooting range being out of compliance with the performance standards.

COMMERCIAL AND INDUSTRIAL USES

8-6-10: STANDARDS FOR ALL COMMERCIAL AND INDUSTRIAL USES:

- A. **Access Management / Access Plan:** Proposed commercial and industrial uses where any portion of the boundary of the proposed parcel is adjacent to Highways 10, 336, 9, 32, 34 or Interstate 94 shall submit an access management plan with any conditional use, rezoning, platting or subdivision request. The access management plan shall conform to the access management submittal

requirements, provisions and criteria as set forth in 8.3.6 of the County Development Code,

- B. Environmental Mitigation:** Proposed commercial and industrial uses shall avoid environmentally sensitive areas and ensure mitigation measures are taken whenever there is a potential adverse impact.

8-6-11: STANDARDS FOR ADULT ENTERTAINMENT USES:

- A. Separation Requirements:** Adult entertainment uses shall be located the following minimum distances from the listed uses that are present at the point in time at which the adult entertainment use is permitted:
1. Five-hundred (500) feet from residential, day care, public parks or playgrounds, religious institutions or educational institutions as measured in a straight line from the entrance to the structure where the adult entertainment use occurs to the nearest property boundary of the listed use.
 2. Five-hundred (500) feet from another adult entertainment use as measured in a straight line between the closest property boundary points.
- B. Maximum Building Size:** The maximum size of a structure where an adult entertainment use occurs shall be no larger than ten-thousand (10,000) square feet.
- C. Signs and Window Displays:** Sexually explicit matter shall not be displayed on signs, window displays, or the exterior of any structure.
- D. Hours of Operation:** The hours of operation shall be set in the conditional use permit and shall not have an adverse impact on adjacent property owners.
- E. No Alcohol:** Alcoholic beverages shall not be consumed or sold anywhere within the structure housing an allowed adult entertainment use.
- F. Exterior Colors:** The colors of the exterior of structures where adult entertainment uses occur shall be muted and blend with surrounding structures, and shall not be neon, bright or multi-colored.

8-6-12: STANDARDS FOR AGRICULTURAL SERVICE ESTABLISHMENTS:

- A. Setbacks:** All establishments shall be located to allow at least three hundred feet (300') between its driveway and any driveway affecting access to a dwelling or farm field, other than that of the owner. All structures and activities (outdoor storage, corrals, etc.) associated with the Agricultural Service Establishment shall be located at least five hundred feet (500') from any dwelling.
- B. Related to Agriculture:** All establishments shall be necessary to the conduct of agriculture within the district.
- C. Compatible with Agriculture:** The use shall not be one to which the noise, odor, dust or chemical residues of commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass.

8-6-13: STANDARDS FOR AIRPORTS, PRIVATE:

The facilities and approach zones of allowed private airports shall meet the following standards:

- A. Dirt and Debris:** Such measures are taken to reduce adverse effects from blowing dirt and debris.

B. Adjacent Property: Such safeguards are taken to minimize any adverse effect on adjacent property.

8-6-14: STANDARDS FOR ASPHALT BATCH PLANTS AND ASSOCIATED USES

A. Standards for asphalt batch plants and associated uses shall be the same as the standards in Section 8-6-18 Standards for redi-mix cement plant, and associated uses.

8-6-15: STANDARDS FOR BUILDING MATERIAL SALES YARDS:

A. **Fencing:** Building material sales yards, if enclosed on all sides by a six foot (6') sight-obscuring fence

8-6-16: STANDARDS FOR EXTRACTIVE USES:

The following standards shall be met for any new extractive use or for any extractive use that has been out of operation for a period of twelve (12) months or longer:

- A. **Administrative Permit:** The Planning Director may administratively approve a permit for an extractive use if all of the following conditions are met:
1. **Intent:** The intent of the administrative permit is to allow small, limited extractive use operations. The administrative permit shall not be used to allow exploration in anticipation of further extraction in subsequent years, nor shall it be used to extract minerals incrementally when if considered in total the operations would require a conditional use permit.
 2. **RP-BIO District:** The extractive use shall not be located in a Resource Protection – Biologically Significant Area District.
 3. **Size:** The proposed surface area for the extractive use shall not exceed ten (10) acres in total for all areas to be opened.
 4. **Duration:** The duration of the extractive use shall not exceed one (1) year. If an administratively permitted extractive use exceeds one year, the landowner shall be barred from obtaining an extractive use permit of any type for a period of five (5) years.
 5. **Extraction Only:** The proposed extractive use shall not include on-site crushers or asphalt plants or other on-site processing of extracted materials.
 6. **Agreement of Surrounding Landowners:** The applicant for an administrative extractive use permit shall provide signed, notarized agreements from all owners of land within one-half (1/2) mile of the proposed exterior boundary of the extractive use area stating their agreement in allowing the proposed use. These agreements shall be submitted with the application and shall include the following information:
 - a. Name, phone number and address of the owner of land where the use is proposed;
 - b. Name, phone number and address of the proposed operator of the extractive use if different than the landowner;
 - c. The proposed area of the extractive use;
 - d. The proposed daily times of operation and months in which the operation will be active; and
 - e. Proposed hauling routes and estimated number of daily truck trips.

7. **Required Conditions of the Permit:** An administrative extractive use permit shall require the following conditions:
- a. Provide a plan, with timeline, for reclaiming the site after materials are extracted. At the time of closure, a dike shall be installed along the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.
 - b. Provide adequate planting, fencing, or berming in areas where extractive uses are adjacent to public roads or residential uses. Sight-obscuring screening may be required between mined areas and adjacent residential property within three hundred feet (300') of the excavation activities.
 - c. During operation, keep any excavation in such condition as not to be dangerous from caving or sliding banks.
 - d. Properly drain, fill or level any excavation, after created, so as to make the same safe and healthful.
 - e. Restrict runoff from the site to lake, rivers, streams or adjacent properties.
 - f. Maintain and operate all equipment in a manner that minimizes noise and vibration to the greatest extent possible. Noise levels shall never exceed the acceptable locational thresholds established by the Minnesota Pollution Control Agency (MPCA).
 - g. Provide a plan for dust control during operations.
 - h. Provide an access plan with approval of the access sites from the appropriate authority. Access shall be limited to one entrance and exit to the site.
 - i. Provide a plan for truck hauling on roads of adequate capacity. The owner/operator shall maintain all roadways within the excavation site and the haul road from the site to the nearest paved highway. Spillage of material on any roadway shall be removed by the owner/operator as quickly as possible.
 - j. Provide adequate signage for public safety, such as "Trucks Hauling" signs.
 - k. Reseed areas where topsoil is removed within thirty (30) days of removal of topsoil.
 - l. **Setbacks:** Structures, storage of excavated materials, and the excavation edge shall be setback the following distances:
 - (1) One hundred feet (100') from the boundary of adjoining property lines, unless written consent from the adjoining property owner is secured and a variance is granted from the Board of Adjustment.
 - (2) Two hundred feet (200') from the right-of-way of existing roads and highways.
 - (3) Three hundred feet (300') from the boundary of adjoining property lines on sites where dust, smoke and noise producing activities are being conducted.
 - (4) Five hundred feet (500') from the boundary of adjoining property upon which residences, schools, churches, public or commercial establishments are located.
 - (5) Two hundred feet (200') from the shoreline of any protected water.
 - (6) The operation shall be completely located outside of the one-hundred (100) year floodplain.

8. **Bonding required.** As a condition of granting the permit, the County shall require the owner or operator to post a bond, in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the County or a township may incur by reason of doing anything required to be done by any applicant to whom a permit is issued, including the cost of required reclamation.
- B. Conditional Use Permit:** The owner of the land where an extractive use is proposed that does not meet the requirements of subsection A., immediately above, shall obtain a conditional use permit meeting the following standards:
1. **Application requirements.** A map of the proposed pit or excavation shall be prepared by a professional engineer or land surveyor and filed with the application showing the confines or limits thereof, together with a plan indicating the topography and overall condition of the site after extraction is completed.
 2. **EAW in RP-BIO District:** An application for an extractive use in a Resource Protection - Biologically Significant Areas District shall include an Environmental Assessment Worksheet conforming to the requirements of the Minnesota Environmental Policy Act of 1973 and 6 MCAR 3.021.
 3. **Required Conditions of the Permit:** A conditional use permit for an extractive use shall require the following conditions:
 - a. Provide a plan, with timeline, for reclaiming the site after materials are extracted. At the time of closure, a dike shall be installed along the edge of the mining pit of sufficient height to prevent all surface water runoff from entering the mining pit.
 - b. Provide adequate planting, fencing, or berming in areas where extractive uses are adjacent to public roads or residential uses. Sight-obscuring screening may be required between mined areas and adjacent residential property within three hundred feet (300') of the excavation activities.
 - c. During operation, keep any excavation in such condition as not to be dangerous from caving or sliding banks.
 - d. Properly drain, fill or level any excavation, after created, so as to make the same safe and healthful.
 - e. Restrict runoff from the site to lake, rivers, streams or adjacent properties.
 - f. Maintain and operate all equipment in a manner that minimizes noise and vibration to the greatest extent possible. Noise levels shall never exceed the acceptable locational thresholds established by the Minnesota Pollution Control Agency (MPCA).
 - g. Provide a plan for dust control during operations.
 - h. Provide an access plan with approval of the access sites from the appropriate authority. Access shall be limited to one entrance and exit to the site.
 - i. Provide a plan for truck hauling on roads of adequate capacity. The owner/operator shall maintain all roadways within the excavation site and the haul road from the site to the nearest

- paved highway. Spillage of material on any roadway shall be removed by the owner/operator as quickly as possible.
- j. Provide adequate signage for public safety, such as “Trucks Hauling” signs.
 - k. Reseed areas where topsoil is removed within thirty (30) days of removal of topsoil.
 - l. **Setbacks:** Structures, storage of excavated materials, and the excavation edge shall be setback the following distances:
 - (1) One hundred feet (100’) from the boundary of adjoining property lines, unless written consent from the adjoining property owner is secured and a variance is granted from the Board of Adjustment.
 - (2) Two hundred feet (200’) from the right-of-way of existing roads and highways.
 - (3) One hundred feet (100’) from the boundary of adjoining property upon which a residence, school, church, public or commercial establishment is located and a minimum of five hundred feet (500’) from any structure used as a residence, school, church, public or commercial establishment.
 - (4) Two hundred feet (200’) from the shoreline of any protected water.
 - (5) The operation shall be completely located outside of the one-hundred (100) year floodplain.
 - 4. **Bonding required.** As a condition of granting the permit, the County shall require the owner or operator to post a bond, in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the County or a township may incur by reason of doing anything required to be done by any applicant to whom a permit is issued, including the cost of required reclamation.

8-6-17: STANDARDS FOR KENNELS:

- A. Minimum lot area for a kennel is five (5) acres.
- B. Minimum frontage required for a kennel is two hundred fifty feet (250') of continuous frontage on a public road right of way.
- C. No structure or waste management area associated with a kennel shall be located in a Special Flood Hazard Area (SFHA).
- D. Any kennel proposed to be located in the Shoreland of a river or stream shall be located in a building that existed prior to the adoption of this amendment. Said building and any/all outdoor exercise/run areas must be setback from the Ordinary High Water level a minimum of 150 feet. No new structures shall be erected in the shoreland of a river or stream for use as a kennel. Any structure associated with a kennel or any outdoor exercise/run areas must be setback at least 300 feet from the Ordinary High Water level of a lake or basin.
- E. All kennel operations require an Interim Use Permit and shall submit a facility operations plan along with the Interim Use Permit application. The facility operations plan shall con-

tain the following information:

- a. Name of kennel operator and landowner, address, phone number, signature and date;
 - b. Type of kennel operation (i.e. breeding, boarding, rescue, sled dog, etc.);
 - c. Number of dogs over six months of age to be permanently housed on property;
 - d. Number of dogs over six months of age to be temporarily housed on property;
 - e. Site plan, to include:
 1. Property location and acreage;
 2. Location of all residences within 600 feet of the proposed kennel area
 3. Floor plan of kennel structure(s);
 4. Location of kennel on the property, including any alternate or temporary sites;
 5. Setback distances from kennel area to property lines, neighboring homes, wells and any protected public waters and/or wetlands;
 6. Any existing or proposed vegetative buffer strips;
 7. Location of waste management area (i.e. composting site, spreading area or storage bin);
 8. Location of any wells and septic systems; and
 9. Location of dwellings on property.
 - f. Waste management plan;
 - g. Noise management or mitigation plan.
- F.** All kennel operations, including waste management areas, shall be set back a minimum of 100 feet from all wells in accordance with the state well code Minnesota Rules Chapter 4725, herein adopted by reference.
- G.** All kennel operation areas shall be set back a minimum of 100 feet from all adjoining property lines, except that kennels may be set back 50 feet from any property lines that abut state or federal properties.
- H.** A vegetative buffer strip, 100 feet in width, shall be established and/or maintained between any part of the kennel area and any protected waters, wetlands or officially designated drainage ways that lead to protected waters. The width of the buffer strip may be increased by the Planning Commission after considering the slope of the property, its proximity to protected waters, and any lake/river classification. Please reference the Clay County Soil and Water Conservation District and NRCS for buffer strip best management practices and technical standards.
- I.** The Planning Commission, at its discretion, may impose additional setbacks on new kennel operational areas on a case-by-case basis upon the review of each interim use permit request. In creating the site plan, the greatest distance from neighboring residences shall be considered by the applicant, encouraging a minimum setback distance of 600 feet from the closest residence.
- J.** The noise standards shall be enforced in conformance with Minnesota Pollution Control Agency Rules Chapter 7030, herein adopted by reference.

8-6-18: STANDARDS FOR REDI-MIX CEMENT PLANT AND ASSOCIATED USES:

- A. Setbacks:** Redi-mix cement plants, asphalt batch plants and associated processing facilities and structures shall be setback the following distances:
 - 1. Three hundred feet (300') from the boundary of adjoining property lines.
 - 2. Five hundred feet (500') from the right-of-way line of the nearest road or highway.
 - 3. One thousand feet (1,000') from the boundary of adjoining property upon which residences, schools, churches, public or commercial establishments are located.
- B. Location:** Redi-mix cement plants, asphalt batch plants and associated processing facilities and structures should be located, to the greatest extent possible, downwind from any inhabited residential structure located within one-quarter (1/4) mile of the proposed site.
- C. Bonding required.** As a condition of granting the permit, the County shall require the owner or operator to post a bond, in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any highways, streets, or other

8-6-19: STANDARDS FOR SALVAGE YARDS:

- A. Separation Distance:** The exterior boundaries of a parcel on which a salvage yard is located shall maintain the following separation distances:
 - 1. A salvage yard shall not be located within two thousand feet (2000') of the boundaries of a parcel where another salvage yard is located.
 - 2. A salvage yard shall not be located within one thousand feet (1,000') of the exterior wall of any residence, school or church.
- B. Screening:** The salvage yard storage area shall be completely screened with an opaque fence of acceptable design a minimum of eight feet (8') feet high, and additional landscape materials required where the salvage yard adjoins a residential district.
- C. Stacking of Materials:** Materials stored outside in a salvage yard shall not be stacked above the height of the fence.

8-6-20: RETREAT CENTERS:

- A. Conditional Use:** Retreat centers shall be processed as a conditional use permit meeting the requirements of this section in addition to the general requirements for a conditional use permit. A site plan shall be submitted with the conditional use permit application showing the location of all existing structures and describing the proposed use.
- B. Review of Permit:** Retreat center permits shall be reviewed and inspected by the Planning Department at least once every five years for compliance with conditions.
- C. Minimum Lot Size:** The minimum lot size required for a lot on which a retreat center is permitted shall be ten (10) acres.
- D. Where Located:** Retreat centers shall not be located in platted subdivisions. Retreat centers may be located within a primary dwelling or in separate residential, nonresidential or farm buildings.
- E. Sign:** One non-illuminated sign only of a maximum size of thirty-two (32) square feet is allowed to

advertise the retreat center use on site. Such sign shall meet the setbacks for structures for the zoning district within which the retreat center is located.

- F. Traffic and Roads:** Traffic generated by the use shall be considered by the Planning Commission and traffic generated by the retreat center shall not exceed that which is reasonable for such a use in the area in which it is located and for the road adjacent to the use. If necessary, application of dust control may be required as a condition of the permit.
- G. Adverse Effect:** The use shall not adversely affect the character of the uses permitted in the zoning district in which it is located.
- H. Performance:** No equipment or processes used at a retreat center shall create noise, vibration, glare, fumes, odors or electrical interference that could create a nuisance off the premises.
- I. Buffering:** Buffering may be required by the Planning Commission to minimize adverse effects to adjacent properties and roadways.
- J. Utilities:** The retreat center shall not create usage exceeding the capacity of the available on-site sewage treatment system and drinking water capacity.
- K. Parking:** Additional parking spaces may be required by the Planning Commission for the use of clients, employees, deliveries, etc.
- L. Permit(s):** The facility must receive the appropriate building permit(s) for any new building(s) or addition(s) to any existing building(s) and must receive appropriate septic permit(s) for all proposed restroom facilities.
- M. Licenses(s):** The facility must receive all Federal, State and local licenses required for operation including Food, Beverage and Lodging licenses as necessary.
- N. Setbacks:** Any structures associated with a Retreat Center must be located at least 500 feet from a residential structure located on adjacent property.
- M. Short Term:** Shall mean a period not to exceed fourteen (14) consecutive days.

PUBLIC SERVICE AND UTILITY USES

8-6-21: STANDARDS FOR TOWERS:

- A. Purpose:** The purposes of the provisions regulating telecommunication towers in this section are to:
 - 1. Maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary to provide telecommunications services to the community;
 - 2. Ensure telecommunication towers are designed, sited, and constructed in a manner consistent with the protection of the public health, safety, and general welfare; and
 - 3. Require tower sites to be secured in order to discourage trespassing and vandalism.
- B. Exemptions:**
 - 1. The following tower facilities and activities shall be allowed in all zoning districts of Clay County without obtaining either a building permit or a conditional use permit:
 - a. Antennas incidental to residential use including but not limited to television, citizens band, business band and similar type of antennas;

- b. Routine maintenance of existing tower facilities; and
 - c. The addition of antennas to a tower facility that meets the standards of this Section and does not increase the height of the tower facility; additional support structures shall require a building permit.
 2. The following tower facilities shall be allowed in all zoning districts in Clay County without a conditional use permit, but do require a building permit:
 - a. The addition of an antenna or antennas on existing structures including, but not limited to, buildings, flag poles, church steeples, cupolas, ball field lights, or power line support device where no modifications are required to the existing structure and where the antenna does not increase the height of the structure by more than twenty feet (20’).
 - b. Towers and antennas used primarily for agricultural purposes provided that all such towers:
 - 1) are freestanding (no guy wires); 2) meet all appropriate FAA/FCC requirements, and; 3) do not exceed a maximum height of 110 feet above ground level (including tower and antennae).
 3. All other tower facilities require a conditional use permit and building permit pursuant to the terms of this ordinance.
- C. **Application:** Application for a conditional use permit shall be submitted pursuant to the requirements of Section 8-4-6 of this Ordinance and shall be accompanied by the following:
 1. A site plan for the proposed tower facility site which shall include the following:
 - a. Graphic scale of the plan, not less than one inch (1”) to twenty feet (20’);
 - b. North directional arrow;
 - c. Location and size of the proposed tower facility, support structures, accessory buildings, access driveways, public roads, parking fences, signs and landscaped areas;
 - d. Building setback lines;
 - e. Existing topography, with contour intervals of not more than ten feet, related to the United States Geological Survey datum;
 - f. The location of water courses, ravines, bridges, lakes, wetlands, wooded areas, rock outcroppings, bluffs, steep slopes, and other geological features within the site;
 - g. Proposed surface drainage diagram for the site;
 - h. Proposed screening; and
 - i. Proposed removal of natural vegetation.
 2. A vicinity map showing current land uses and existing residences and businesses within one-half mile of the proposed tower.
 3. A sworn statement signed by applicant that the communications equipment for the proposed tower cannot be accommodated on an existing tower or building within a two-mile radius of the proposed tower due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost.
 - b. The planned equipment would cause interference materially impacting the usability of other

- existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
- c. No existing or approved towers or commercial/industrial buildings within a two-mile radius meet the radio frequency (RF) engineer requirements.
 - d. Existing or approved towers and commercial/industrial buildings within a two-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional radio frequency (RF) engineer.
 - e. In spite of best efforts, the applicant is unable to negotiate reasonable business terms regarding the lease or purchase of space on an existing tower.
 - f. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures within a two-mile radius was made, but an agreement could not be reached.
4. A commitment in writing from the applicant committing the applicant and its successors to allow the shared use of the tower facility if an additional user agrees in writing to meet reasonable industry terms and conditions for shared use.
 5. If erection of the tower or construction of any tower facility will disturb any part of a bluff or a steep slope, the applicant shall provide an erosion control plan prepared by a landscape architect or professional engineer.
 6. Proof of filing of an application with the Federal Aviation Administration or an engineer statement showing that no filing with the Federal Aviation Administration is necessary.
 7. A copy of the National Environmental Protection Act study required by the Federal Communication Commission. No antenna shall be installed on any tower facility until a Federal Communication license is issued for that antenna.
 8. A copy of the Certificate of Insurance for liability and worker's compensation insurance that requires notification to Clay County Planning and Zoning Office prior to cancellation. This insurance shall be kept in effect until the tower facility is removed.
 9. An acceptable financial guarantee equal to one and one-half times the estimated cost of removing the tower facility and restoring the site to its original condition. The estimated cost shall be determined by the Clay County Zoning Administrator.
 10. Filing fees as determined from time to time by the Clay County Board of Commissioners.

D. Standards:

1. All telecommunication towers erected within Clay County shall be freestanding towers. No guyed telecommunication towers will be allowed in any zoning districts.
2. No conditional use permit shall be issued for a tower facility within a subdivision intended for residential use.
3. No tower facility shall be erected within 1,000 feet of the ordinary high water mark of any public water unless there is a finding that there is no other practical alternative location outside of that distance.
4. Any tower shall conform with the following minimum setback requirements:
 - a. All towers shall be situated so as to be located entirely within a single tract of land.
 - b. All towers shall be sited so as to be located a distance from any building equal to the height of the tower.

- c. All towers shall be located a distance from any public roadway at least equal to the height of the tower.
 - d. The minimum distance to the nearest residential property line shall be equal to the height of the tower. The minimum distance to the nearest dwelling shall be the height of the tower plus 100 feet.
5. The owner's name, telephone number and site ID number shall be posted on the gate of the perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except warning and equipment information required by the manufacturer or by federal, state or local authorities.
6. Removal or alteration of vegetation is allowed as necessary for the construction and erection of the tower facility including accessory buildings and supports, but shall be held to a minimum. If erection of the tower or construction of tower facility will disturb any bluffs or steep slopes, the erosion control plan submitted with the application shall be complied with.
7. All towers erected or located within the County and all wiring therefore shall comply with the following requirements:
 - a. Towers and their antennas shall comply with all applicable provisions of the ordinance.
 - b. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the Uniform Building Code and all other applicable reviewing agencies.
 - c. Towers and their antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
8. Metal towers shall be constructed of, or treated with, corrosive resistant material, shall be colored alternating red and white, and shall be marked in accordance with permit conditions.
9. In order to reduce the number of tower facilities needed within the county in the future, any proposed tower shall be designed, structurally, electrically, and in all respects to accommodate both the applicant's antennas and comparable antennas for additional users. For towers greater than 200 feet in height, the structure shall be designed to accommodate at least four additional providers. For towers less than or equal to 200 feet in height, the structure shall be designed to accommodate at least two additional providers. This requirement may be modified if the applicant demonstrates that such a design is not feasible for economic, technical or physical reasons. To allow for future rearrangement of antennas upon the tower, the tower shall be designed to accept antennas mounted at no less than 20 foot intervals.
10. **Co-location Priority:** Government agencies shall have a right-of-first refusal for co-location on approved tower facilities. The tower owner shall file a written right-of-first refusal in favor of government agencies with the County Planning Department at the time of final approval of the tower facility. The right-of-first refusal shall, at a minimum, include the following provisions:
 - a. A requirement for notification of the County Planning Department prior to any leasing of tower space.
 - b. That if the right to co-locate is exercised by a government agency, the lease rate shall be not greater than the market rate for comparable leases in the area.
11. All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower (measured from ground level to 12 feet above ground level) shall be designed in a manner to preclude unauthorized climbing and shall be enclosed by a six-foot-high chain link fence with

anti-climb barbed wire protection and a locked gate.

12. All towers and their antennas shall, to the greatest extent possible, utilize building materials, colors, textures, screening and landscaping that effectively blend the tower facilities with the surrounding natural setting and built environment to the greatest extent possible. A landscaping plan for screening shall be submitted as part of the permit application process.
 13. Trees and large shrubs, native to the area, shall be planted so that the facility is screened from adjacent residential properties. These trees and large shrubs shall be maintained for the life of the tower facility.
 14. Towers and their antennas shall not be illuminated by artificial means, except for camouflage purposes (designed as a lighted tower for a parking lot or a ball field) or the illumination is specifically required by the Federal Aviation Administration or other authority. No night time strobes shall be allowed unless specifically required by the Federal Aviation Administration or other authority.
 15. No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces shall at any time extend across or over any part of the right-of-way, public street, highway, or sidewalk, without approval of the County through the conditional use permit process.
 16. All communication towers and their antennas shall be adequately insured for injury and property damage caused by collapse of the tower. A certificate of insurance shall be filed with the Planning Office prior to commencing operation of the facility.
- E. Antennas mounted on roofs, walls, and existing towers:** In addition to the submittal requirements required elsewhere in this Ordinance, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:
1. A site plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this ordinance;
 2. A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this ordinance;
 3. Proof of the structure's or tower's ability to support the antennas; and
 4. An intermodulation study to ensure there will be no interference with existing tenants or public safety telecommunication providers.
- F. Completion of Construction:** Construction of an approved tower facility shall be completed within one (1) years from the date of the issuance of the conditional use permit. Landscaping and screening must be installed within the first growing season immediately following construction.
- G. Continued Use, Abandonment and Removal:**
1. Existing tower facilities may continue in use and routine maintenance may be performed on them, but they may not be altered, converted, modified, transformed, varied, added to or changed in any way without complying with the terms of this ordinance.
 2. The owner of an existing tower facility or any tower facility erected or constructed after the passage of this ordinance shall file an annual statement of operation on or before January 10 of each year following construction of the tower. This statement of operation shall certify that the tower is operational and shall include a summary of the current antenna configuration on the tower. If the statement is not filed by January 10 of any year, the County shall notify the owner in writing of failure to file. Failure to file a statement within sixty (60) days of receiving a notice

of failure to file shall be prima facie evidence that the tower facility is no longer in use and may be considered abandoned.

3. Tower facilities that are not in use for 365 consecutive days (1 year) shall be deemed abandoned and shall be removed by the owner within 180 days from the date of the abandonment. Removal includes removal of the complete tower facility, including accessory buildings and related above ground infrastructures and restoration of the site to preexisting vegetative cover. An extension to this time-frame may be granted by the Planning Commission upon receipt of a written request from the owner/operator of the facility.
4. In case of multiple operators sharing the use of a single tower, the tower shall not be deemed abandoned until all users cease operations for a period of 365 consecutive days (1 year).
5. If the tower facility is not removed in accordance with this subdivision, then the County, after 60 days' notice to the owner or operator of the tower facility, may take legal action. The County's remedies may include obtaining a court order allowing the County to remove the tower facility at the cost of the owner or last operators.

H. Maintenance: All tower facilities shall be maintained in a safe and clean condition. The tower facility owner shall be responsible for maintaining a graffiti, debris, and litter free site. The landscape plan shall be maintained for the life of the tower facility. If the facility is not maintained, the County may bring legal action. The County's remedies may include, after 60 days' notice to the owner or operators, an order allowing the County to complete the maintenance at the cost of the owners or operators of the tower facility.

STRUCTURES AND USES ACCESSORY TO PRINCIPAL USES

8-6-22: STANDARDS FOR ABOVE GROUND STORAGE OF PETROLUUM PRODUCTS

A. Size Limited: Above-ground storage of petroleum products shall be limited to one-thousand (1,000) gallons in the AG Agricultural District.

8-6-23: STANDARDS FOR OUTDOOR STORAGE OF AUTOMOBILES

A. Definition of Outdoor Storage: Outdoor storage of automobiles means the presence any vehicles outside of a structure where such vehicles do not meet the following criteria:

1. **Licensed and Insured:** The vehicle is currently licensed and insured.
2. **Roadworthy:** The vehicle is roadworthy and in working order.

B. Standards: Outdoor storage of automobiles that do not meet the criteria in A., above, shall conform to the following:

1. **Number Limited:** The number of automobiles that are allowed to be stored under this section is (2) two.
2. **Setbacks from Property Line and Screening:** All automobiles allowed to be stored under this section shall be setback twenty-five feet (25') from all property lines and shall be screened from adjacent residential properties by a six foot (6') tall solid fence.
3. **No Parts Stored:** The storage of automobiles shall only include the storage of in-tact vehicles, and shall not include the storage of automobile parts.

8-6-24: STANDARDS FOR ACCESSORY ENERGY SYSTEMS – WIND GENERATORS
REPEALED BY ORDINANCE 2009-2

8-6-25: STANDARDS FOR FARM STANDS; SEASONAL AGRICULTURAL PRODUCT SALES

- A. **On-farm Produce:** Accessory farm stands shall sell only agricultural products produced on the farm where the stand is located.
- B. **Size Limited:** Accessory farm stands shall be limited to one structure not exceeding six hundred (600) square feet.
- C. **Parking:** Off-street parking shall be provided outside of any road right-of-way.

8-6-26: STANDARDS FOR HORSES IN PLATTED SUBDIVISIONS

- A. **Horses in Platted Subdivisions:** The keeping of horses in platted subdivisions shall conform to the following:
 - 1. **Minimum Lot Size:** Horses may be kept on lots in platted subdivisions of three (3) acres in size or greater and shall be prohibited on lots of lesser size.
 - 2. **Number of Horses Per Lot:** Horses are limited to one (1) adult animal for the first three (3) acres of the lot and one (1) additional adult animal for each additional two (2) acres. The number of juvenile animals less than six (6) months of age is not limited provided they are offspring to an allowed adult mare.
 - 3. **Minimum Grazing Area:** A minimum grazing area of one (1) acre, accessible within fencing, is required for the first allowed horse, and an additional one-half (1/2) acre of grazing area, accessible within fencing is required for each additional allowed horse.
 - 4. **Fences:** Fences confining any horses allowed under this section shall be located at least ten feet (10') from adjoining property lines.

8-6-27: STANDARDS FOR SWIMMING POOLS

- A. **Fencing:** All swimming pools shall be required to be fenced to restrict access to swimming areas. Fencing shall completely surround the swimming pool and shall be a minimum of four feet (4') in height. Additional fencing shall not be required for aboveground pools, provided access to all swimming areas is restricted by deck railings.

8-6-28: STANDARDS FOR ACCESSORY RECREATIONAL VEHICLES.

Accessory recreational vehicles shall meet all of the requirements of this section. If the licensing and highway ready requirements of A. and B. below are not met, such recreational vehicles must be located in the Flood Fringe District and must meet the elevation, anchoring, and road access requirements of Section 8-5A-7 above.

- A. **Current License:** Recreational vehicles shall have current licenses required for highway use.
- B. **Highway Ready:** Recreational vehicles must be highway ready meaning on wheels or the

internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the recreational vehicle has no permanent structural type additions attached to it.

C. Number Limited: The maximum number of recreational vehicles combined, shall not exceed two (2).

D. Location Limited: Recreational vehicles shall be located on one of the following sites.

1. Individual lots of record.

2. Existing commercial recreational vehicle parks or campgrounds.

E. Structural Additions Limited: Recreational vehicles shall meet the elevation, anchoring, and road access requirements of Section 8-5A-7 when development occurs on the parcel exceeding five hundred dollars (\$500) for a structural addition to the recreational vehicle or an accessory structure such as a garage or storage building. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

F. Floodplain Requirements for New Commercial Recreational Vehicle Parks and Campgrounds and Expansion of Any Similar Uses Exceeding Five (5) Units or Dwelling Sites:

1. Any new or replacement recreational vehicle will be allowed in the Flood Fringe District provided said recreational 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 Section 8-5A-7A of this Ordinance. If the recreational vehicle does not meet the licensing and road ready requirements of A and B immediately above, then the recreational vehicle must meet the anchoring requirements for manufactured homes in Section 8-5A-7E7.
2. All new or replacement recreational vehicles not meeting the criteria of 1. immediately above may, as an alternative, be allowed as a conditional use in all Flood Hazard Zones if in accordance with the following provisions and the provisions of Section 8-7-4 of this Ordinance. The applicant must submit an emergency plan for the safe evacuation of all recreation vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate that the licensing and road ready provisions of A. and B. above will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8-5A-9 of this Ordinance.

8-6-29: STANDARDS FOR STORAGE YARDS FOR EQUIPMENT, MACHINERY, OR MATERIALS ACCESSORY TO COMMERCIAL USES

- A. Accessory Only:** Outside storage of equipment, machinery or materials shall not be a principal use and shall be accessory only to allowed commercial uses.
- B. Maximum Area:** Outside storage of equipment, machinery or materials shall occupy no more than ten percent (10%) of the lot area or ten-thousand (10,000) square feet, whichever is greater.
- C. Not in Setback:** Outside storage of equipment, machinery or materials within any structure setback area shall be prohibited.

- D. Screening:** Outside storage of equipment, machinery or materials shall be screened so as not to be visible from any residence on adjacent properties.

TEMPORARY USES

8-6-30: STANDARDS FOR TEMPORARY USES

- A. Temporary uses shall be of a truly temporary nature, and
1. Shall not involve the erection of substantial buildings or structures; and
 2. Shall not exist for a period of more than three (3) months.

**CHAPTER 7
SUBDIVISION REGULATIONS**

INTRODUCTORY PROVISIONS

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LAND DIVISION AND DEVELOPMENT REVIEW PROCESS

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- 8-7-16: LAND DIVISION BY COMMON INTEREST COMMUNITY PLAT**
- 8-7-17: UNITED STATES PUBLIC LAND SURVEY MONUMENT RECORD:**

8-7-1: PURPOSE:

The purpose of this Chapter is to establish application requirements, review processes and review standards for subdivision and development permits in Clay County.

8-7-2: WHEN REQUIRED:

All proposed divisions of land in Clay County by minor subdivision, by a platted subdivision, or by a common interest community plat shall fully comply with the provisions of this Ordinance.

8-7-3: SUBDIVISION APPROVAL PRIOR TO ISSUANCE OF BUILDING PERMITS:

No permit for the construction of a building or sewage treatment system shall be issued until all final approvals required by this Chapter have been granted, including, but not limited to, final approvals for required improvements. No improvements shall be installed until preliminary plat approval has been granted.

8-7-4: COMPLIANCE WITH ZONING PROVISIONS:

The requirements of this Chapter provide for processes to divide land in Clay County. The zoning requirements of this Ordinance establish zoning districts, allowed uses, density and design requirements for land use and structures in the County. All divisions of land submitted for approval under this Chapter, whether by minor subdivision, platted subdivision, or common interest community plat, shall conform to the zoning requirements of this Ordinance for the zoning district where the parcel(s) of land are located. No development permit authorized under this Chapter shall be issued unless all zoning requirements of this Ordinance are met.

8-7-5: SUBDIVISION REVIEW WITHIN EXTRATERRITORIAL JURISDICTION OF CITIES:

Applications for development within Clay County where the development parcel lies within the extraterritorial jurisdiction area of a municipality that has exercised extraterritorial jurisdiction shall be subject to the subdivision review of such municipality which may vary from county subdivision provisions. However, the zoning regulations of Clay County as contained in this Ordinance shall remain in effect within any municipal extraterritorial jurisdiction. Any approvals required by Clay County shall only be issued after proof is submitted to Clay County that required municipal approval has been officially granted. Township authority for review and approval of new roads, as provided for in Section 8-7-6, shall exist within extraterritorial jurisdiction areas.

8-7-6: TOWNSHIP REVIEW AND APPROVAL OF NEW ROADS

The lot on which the unit is located must have frontage along a public right of way. If the creation of new right of way is required to service proposed parcels or lots, the developer must obtain a written agreement from the township board of supervisors stating the township will accept full and permanent responsibility for the maintenance of and snow removal on any new right of way created as a result of the development proposal. This agreement must be approved by a majority of the township's officers at a duly held meeting of the township board. The agreement shall be in recordable form and shall be recorded with the plat. A copy of the executed township agreement must be presented, by the developer, to the County planning office prior to County consideration of the development proposal.

8-7-7: ENVIRONMENTAL REVIEW

An environmental review may be required for projects that could result in significant environmental impacts. The Minnesota Environmental Policy Act of 1973 and 6 MCAR 3.021 allow for the preparation of Environmental Assessment Worksheets (EAW) and Environmental Impact Statements (EIS) for mandatory development thresholds or discretionary environmental reviews ordered by Clay County. The following provisions apply to environmental review when required:

- A. Complete Before Consideration of Preliminary Plat:** If an environmental review is required, no preliminary plat may be approved, nor may any land disturbance activity be allowed, until such EAW or EIS, whether mandated by the State or ordered by Clay County, has been prepared, referred for review and acted upon.
- B. Payment for Cost of Review:** The County shall prepare, at the developer's expense, and with the developer's input and assistance, any mandatory or discretionary EAW or EIS.

8-7-8: TRANSFER AND DIVISION OF LAND DESCRIBED BY METES AND BOUNDS:

- A. Survey Required for Transfer of Land Described by Metes and Bounds:** When the ownership of a parcel or tract of land is transferred by a metes and bounds description, the County Auditor shall require such parcel or tract to be surveyed and its description to be accompanied by a surveyor's certificate showing the dimensions and location of such parcel in relation to the nearest Section Corner. The legal description on the survey must match the legal description on the transferring document.
- B. Government Lot Descriptions May be Used for Transfer of Land for Agricultural Use:** A transfer of ownership of a parcel or tract of land described by United States Government Land Survey Description may be transferred without the requirement of a survey or surveyor's certificate; however, no parcel described as an area less than ten (10) acres or an area including a reference to a measurement by feet may be transferred under this provision. In addition, the transferred parcel shall be used for agricultural purposes only. Transfers for development purposes shall comply with the subdivision provisions of this chapter.
- C. Division of Land Using Government Lot Descriptions:** The division of a parcel or tract of land described by United States Government Land Survey description shall be allowed only if in compliance with the minor or major subdivision provisions of section 8-7-13 or 8-7-14 of this Chapter.
- D. Survey Requirements Under This Section:** Surveys required under this section must be made by a registered land surveyor (RLS) under the laws of the State of Minnesota. All such surveys shall be certified by the surveyor and shall bear his registration number. Required surveys shall be filed with the Planning and Zoning Department and the Office of the County Recorder.
- E. Recording of Deeds:** The county recorder shall not record nor file for record any deed for the transfer of ownership of any tract made in violation of this section.

8-7-9: SITE SUITABILITY REQUIRED:

- A. Site Suitability:** No development permit shall be issued unless the proposed development site meets all the following general development suitability requirements:
 - 1. Flood Plain:** The site shall contain sufficient usable land under the flood plain regulations.
 - 2. Drainage:** The site shall possess adequate drainage.
 - 3. Topography:** The site shall not have topographical limitations such as rock formations, eroded areas and similar defects.
 - 4. Sewage Disposal:** The site shall possess sufficient land for sewage treatment facilities.
 - 5. Drinking Water:** The site shall have access to a drinking water supply adequate for the proposed use. A volume of five (5) gallons per minute for residential uses shall be adequate.
 - 6. Building Site:** All lots within the floodplain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
 - 7. Road Access:** All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District 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.

- B. Proof of Suitability:** The proof of site suitability shall rest with the applicant, who, before a development is approved, shall furnish percolation tests, soil borings, water samples or similar proof that all land for development is adequate for use as building sites. In the General Flood Plain District and for lakes and wetlands within Zone A, applicants shall provide the information required in Section 8-5A-8(A)(3) thru (5) of this Chapter to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
- C. 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 multi-structure or multi-lot 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.

8-7-10: ADDITIONAL STUDIES:

In considering a land division or development proposal, the Planning Commission or County Board may request a report by the Zoning Administrator or other County staff or a consultant; additional information from the applicant; input from any affected public service facility provider or special service district; and input from contiguous, affected or potentially affected jurisdictions. If so required, the applicant shall bear the full cost of meeting this requirement.

LAND DIVISION AND DEVELOPMENT REVIEW PROCESS

8-7-11: PRE-APPLICATION MEETING:

- A. Pre-application Meeting:** Prior to the submission of an application for a minor subdivision, a preliminary plat for a major subdivision, cluster subdivision plat or a common interest community plat the applicant and landowner, if different than the applicant, shall meet with Planning Department staff in order to be made fully aware of all applicable ordinances, regulations and plans that apply to the area proposed for subdivision.
- B. Sketch Plan:** In order to facilitate discussion at the pre-application meeting, the applicant shall submit a general sketch plan of the proposed land division. The sketch plan shall include the following information:
 - 1. A line drawing to accurate scale with the scale indicated on the plan;
 - 2. Topography of the site;
 - 3. Proposed lot lines;
 - 4. General location of all proposed buildings and their proposed use;
 - 5. General location of roads and access; and
 - 6. Other information as may be requested by Planning Department staff.

8-7-12: STAFF REVIEW OF LAND DIVISION AND DEVELOPMENT PERMIT APPLICATIONS:

- A. Application Forms:** Applications for land division and development permits shall meet the requirements of this Chapter and shall be submitted on forms developed by the Planning Department.
- B. Staff Review of Applications for Completeness and Date of Submission:** Applications shall be reviewed within ten (10) working days for completeness by the Zoning Administrator upon receipt and prior to forwarding an application to the Planning Commission or County Board. An incomplete application shall be returned to the applicant with specific information on deficiencies in the application and remedies for such deficiencies. Any date referring to the date of submission of a completed application shall mean the date upon which a complete application was submitted, it shall not mean the date upon which an incomplete application was submitted.
- C. Compliance and Site Suitability Review:** Upon receipt of a completed application, the Planning Department shall review the application for conformance with regulations and site characteristics for development suitability meeting the provisions of section 8-7-9, above.
- D. Field Trip:** As part of the general application review procedure, the Planning Department shall schedule a field trip in order to evaluate the site characteristics and limitations, if any, of the proposed site of the development. The field trip shall not be part of the completeness review in subsection B. of this section.

8-7-13: LAND DIVISION BY MINOR SUBDIVISION:

- A. When Required:** A minor subdivision shall be required for proposed land divisions that will result

in a total of two lots and where the resulting developable lot shall be used for residential purposes only. Minor subdivision shall not be required if both resulting lots are five (5) acres in size or greater and both lots shall be used for agricultural purposes only.

- B. Application for Development Permit and Sketch Plan:** The applicant for a minor subdivision shall submit to the Planning Department a sketch plan of the development meeting the information requirements of section 8-7-11 B., above, together with an application for a development permit as required in section 8-7-11 A, above.
- C. Administrative Approval of Application:** After the submission of a completed application and sketch plan the Planning Department shall review the application and sketch plan and conduct a field trip. After the field trip, the Zoning Administrator shall within ten (10) days, approve with conditions, or disapprove the application and sketch in writing and advise the applicant of any stipulations or conditions that are required in the layout or character of development. The applicant shall certify in writing that he/she agrees to all requirements of these regulations together with any additional requirements or conditions as stipulated in the Zoning Administrator's approval.
- D. Appeal of Application Review:** Within thirty (30) days of receipt of the Zoning Administrator's action, the applicant may appeal any disapproval or any additional requirements or conditions stipulated in the Zoning Administrator's approval. The application and sketch plan shall then be forwarded to the Planning Commission for consideration at the next regularly scheduled meeting. For the purpose of reviewing the application and sketch plan, the Planning Commission may hold one or more public hearings. Following review, the Planning Commission shall approve, approve with conditions, or disapprove the application and sketch plan.
- E. Registration of Surveyor's Certificate:** Approval of the application and sketch plan shall constitute authorization to prepare a surveyor's certificate and file it with the Zoning Administrator.

8-7-14: LAND DIVISION BY REGISTRATON OF A PLAT OF SUBDIVISION/MAJOR SUBDIVISION:

- A. When Required:** Except for land divided under the provisions of section 8-7-12, above, of this Chapter, land division by registration of a plat of subdivision shall be required for proposed land divisions that will result in either of the following:
 - 1. **Nonresidential:** One or more nonresidential lot; or
 - 2. **Three or More Lots:** Two (2) or more developable residential lots and the remainder of the parcel, totaling three (3) or more lots.
- B. Preliminary Plat Requirements and Review Procedure:** An applicant for a land division by registration of a plat of subdivision shall meet the following requirements:
 - 1. **Application and Preliminary Plat:** After the pre-application meeting as required in section 8-4A-1, an applicant shall submit copies of the following:
 - a. **Application:** An application on forms provided by the Planning Department;
 - b. **Preliminary Plat:** An electronic version and One (1) large size (22' x 34') paper copy of a preliminary plat meeting the data requirements of section 8-7-14 D, below; and
 - c. **Improvement plans:** Improvement plans meeting the requirements of section 8-7-14 E, below.

2. **Time of Submission:** A subdivision application may be reviewed at a regularly scheduled Planning Commission meeting only if submitted to the Planning Department at least thirty (30) days before the meeting.
3. **Review of Application and Preliminary Plat:**
 - a. **Review by Planning Commission:** The Planning Commission shall review the plat and application material for conformance with regulations, development suitability, and policy conformance with the Land Use Plan. For the purpose of reviewing the preliminary plat the Planning Commission shall hold one or more public hearings.
 - b. **Decision by Planning Commission:** Within forty (40) days of the close of the public hearing, the Planning Commission shall approve the preliminary plat with findings that contain conditions for approval or shall state reasons for denial of the plat. An approved preliminary plat shall continue through process described in this Chapter. A denial of a plat by the Planning Commission shall be reviewed by the County Board for final action on the plat.
 - c. **Acceptance of Conditions and Revisions to Application and Preliminary Plat:** The Planning Commission action and findings shall be specified in writing the record of such action shall be forwarded to the applicant and one copy retained by the Planning Commission. The mailing to the applicant shall include an “Acceptance of Conditions” form provided by the Zoning Administrator. The Acceptance of Conditions form shall state that the applicant has read, understands and agrees to the conditions recommended by the Planning Commission and shall be signed by the applicant and returned to the Zoning Administrator within ten (10) working days of receipt.
 - (1) **Development Agreement:** A development agreement may be used in place of the “Acceptance of Conditions” form if agreed upon by the applicant and the Zoning Administrator. The development agreement shall be approved by the County Board as part of the final plat approval process. If used, the development agreement shall include the following minimum terms:
 - i. Conditions of plat approval
 - ii. Description of standards and conditions for improvements
 - iii. Schedule for installing improvements
 - iv. Ownership of improvements
 - v. Guarantees of performance and maintenance
 - vi. Remedies for default
 - d. **Conditional Approval Authorizes Preparation of Final Plat:** Conditional approval of the preliminary plat and return of the “Acceptance of Conditions” form shall authorize the applicant to prepare a final plat in conformance with the conditions approval of the preliminary plat.
 - e. **Waiver of Planning Commission Review of Final Plat:** In order to expedite final plat review, the Planning Commission may waive its authority to review the final plat. In those instances where the final plat is determined to be substantially different from the preliminary

plat authorized by the County Board, the Planning Commission's waiver shall be void and the Planning Department shall forward the final plat to the Planning Commission and County Board for final review.

- C. Final Plat Requirements and Review Procedure:** An applicant for a land division by registration of a plat of subdivision shall meet the following requirements.
- 1. Time Limitation for Submittal of Final Plat:** Within six (6) months of the date of the preliminary plat approval, the applicant shall submit a final plat. If requested in writing by the applicant, the plat may constitute only that portion of the approved preliminary plat which the applicant proposes to record. Failure to meet with the time limitation in this provision shall void the preliminary plat.
 - 2. Number of Copies:** The applicant shall file with the Planning Department an electronic copy and sufficient number of paper copies, as determined by the Planning Department, for distribution to the appropriate County departments and state agencies.
 - 3. Form of Final Plat Submittal:** The final plat shall meet the following requirements:
 - a.** The data requirements of section 8-7-14 D, below;
 - b.** The requirements contained in the conditional approval of the preliminary plat; and
 - c.** Shall be drafted in accordance with Minnesota Statutes Annotated Chapter 505.
 - 4. Time of Submission:** A final plat may be reviewed at a regularly scheduled planning commission meeting only if submitted to the Planning Department at least twenty (20) days before the meeting.
 - 5. Review by County Recorder:** All plats shall be submitted to the County Recorder for review at least ten (10) days prior to the scheduled planning commission meeting.
 - 6. Review by Commissioner of Natural Resources:** All plats consistent with shoreland management provisions of this Title shall be reviewed by the Commissioner of Natural Resources before final County approval can be made. A copy of the proposed plat shall be reviewed by the Commission at least ten (10) days before the hearing on the final plat is scheduled. A lack of response by the Commissioner of Natural Resources shall not delay County action.
 - 7. Forwarding to County Board:** Upon approval by the Planning Commission, or upon waiver of Planning Commission review as provided for in section 8-7-14 B 3e, above, the Planning Department shall forward the plat to the County Board for issuance of the final development order and signatures.
 - 8. Notice to Commissioner of Natural Resources:** Copies of all plats within shoreland areas approved by the County shall be submitted to the Commissioner of Natural Resources within ten (10) days of their final approval.
 - 9. Filing:** The development order approving the final plat shall become final upon receipt of a certified copy of the plat and the filing of the plat and any additional agreements or issuances with the County Recorder.
 - 10. Electronic Version of Final Approved Plat:** Upon receiving final approval, the applicant shall submit a copy of the approved version of the plat in electronic format compatible with the software in use by the County at the time of submittal. The electronic plat shall be reference as

Clay County coordinates and provide a seamless edge match to the existing County database.

- D. Data Requirements for Subdivision Applications for Preliminary and Final Plats:** An applicant for a land division by registration of a plat of subdivision shall meet the following requirements.
1. **General Information and Data:** Applications for subdivisions shall contain general information describing the existing conditions of the site and the proposed development. This information shall include, but is not limited to, data on existing or proposed covenants, land characteristics, utilities, and street improvements.
 2. **Survey Data:** All survey data shall be drafted in accordance with Minnesota Statutes Annotated chapter 505.
 3. **Preliminary Plat:** Preliminary plats shall contain the information listed below.
 - a. **Scale:** One inch equals one hundred feet (1" = 100') (Minimum).
 - b. **Identification and Description:**
 - (1) **Name of Subdivision:** Proposed name of subdivision, provided the name shall not duplicate or be similar in spelling or pronunciation to the name of any plat previously recorded in the County.
 - (2) **Location:** Location by section, township, range or by other legal description.
 - (3) **Names and Addresses:** Names and addresses of the owner, subdivider, surveyor, and designer of the plan.
 - (4) Graphic scale.
 - (5) North point.
 - (6) Date of preparation.
 - c. **Existing Conditions:** Existing conditions in the tract proposed for development and in the surrounding area to a distance of three hundred feet (300'), including the following:
 - (1) Boundary line of proposed subdivision, clearly indicated.
 - (2) Total approximate acreage.
 - (3) Platted streets, railroad right of way, and utility easements.
 - (4) Boundary lines and ownership of adjoining unsubdivided land.
 - (5) Sewers, water mains, culverts or other underground facilities.
 - (6) Permanent buildings and structures.
 - (7) Topography, showing lakes, watercourses, wetlands and contours at vertical intervals of not more than two feet (2'), unless the grade is greater than fifteen percent (15%). All elevation data shall be mean sea level or some other assumed, workable datum.
 - (8) Other information, such as soils tests, if requested by the Planning Commission or County Board to aid in their review.
 - (9) Designation of areas which, before improvements, are subject to inundation or stream overflow. For purpose of information only, the outline of the flood plain, present shorelines, ordinary high water level and water elevation.
 - d. **Subdivision Design Features:** The following subdivision design features shall be shown.

- (1) **Streets and Utility Easements:** Layout and width of proposed streets and utility easement showing street names, lot dimensions, and public areas. Street names and numbering shall conform to the established county street numbering system. The street layout shall include all contiguous land owned by the subdivider.
 - (2) **Use:** Proposed use of all parcels, and if zoning change is contemplated, proposed rezoning.
 - (3) **Street Grades and Drainage Plan:** Preliminary street grades and drainage plan shall be shown on a copy of the contour map.
 - (4) **Stormwater and Erosion Control:** A stormwater and erosion control plan meeting Minnesota Pollution Control Agency standards shall be submitted.
 - (5) **Tree Removal Plan:** A tree removal plan, conforming to the provisions of Section 8-5D-4 C.4., shall be included for a major subdivision on wooded or marginal soils in the AG District.
4. **Final Plat:** Final plats shall contain the information listed below.
- a. **Water, Sewage Disposal, Drainage and Flood Control:** Plans for the provisions of safe and potable water, sewage disposal, drainage and flood control.
 - b. **Soil Borings:** Soil borings, if required by the Planning Commission or County Board.
 - c. **Ground Water Control:** Evidence that ground water control is at least ten feet (10') below the level of any finished grades, or a plan is provided for solving ground water problems.
 - d. **Survey Data:** Data required as set forth in Minnesota Statutes Annotated chapter 505, and also the following requirements:
 - (1) **Boundary Lines and Lot Lines:** All interior and exterior boundary lines shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle, radii and arc links for all curves.
 - (2) **Buildable Area:** The size of the buildable area shall be indicated for each lot. Buildable area shall not include shoreland setbacks, regulated wetlands, or road right-of-way. Buildable area may include building setbacks other than shoreland setbacks.
 - (3) **Monuments:** Durable iron monuments shall be set at each angle and curve point on the interior and exterior boundary lines and at all block corners and at all intermediate points on the block or lot lines indicating a change of direction in lines. The plat shall indicate that the monuments have been set.
 - e. **Identification System:** An identification system for all lots and blocks.
 - f. **Lot Size:** The size (in square feet) and dimension of all lots.
 - g. **Lots Located in Flood Plain Districts:** All lots located in the flood plain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet (2') below the regulatory flood protection elevation. For all subdivisions in the flood plain, 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.
 - h. **Certification By Surveyor:** Certification by a registered land surveyor to the effect that the

- plan represents a survey made by him and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct.
- i. **Surveying Requirements:** Point of beginning or point of commencement must be at a recorded government corner.
 - j. **Owner Certification:** Certification by the owner shown in the title opinion shall be that of the owner of record of the platted lands on the date of recording of the plat with the County Recorder.
 - k. **Owner, Mortgage Holder Notarized Certification:** Notarized certification by owner shown in the title opinion shall be that of the owner and any mortgage holder of records on the date of the adoption of the plat and the dedication of streets and other public areas.
 - l. **Tax Certification:** Certification showing that all taxes currently due on the property to be subdivided have been paid in full.
 - m. **Township Board Certification:** Certification by the township board showing plat approval.
 - n. **Certification of Plat Approval:** Certifications by the County Board, County Planning Commission chairman, County Engineer, County Zoning Administrator showing plat approval.
 - o. **Certification of County Recorder:** Certification of County Recorder authenticating recording of the plat.
 - p. **Covenants:** All covenants affecting the platted parcels shall be in final form for recording.
- E. **Design Standards for Subdivisions:** Proposed subdivisions shall meet all the design standards listed below.
- 1. **Statement of General Design Standards:** Generally, design standards shall assure that the layout of the subdivision harmonizes with existing plans affecting the development and its surroundings and shall be in conformity with the development objectives of the County. In addition, design shall be harmonious with, reflect and connect to adjacent subdivisions.
 - 2. **Streets:**
 - a. **General Street Design:** The design of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm waters and to proposed uses of the area to be served. Where new streets extend existing adjoining streets, their projections shall be at the same or greater width, but in no case less than the minimum required width. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new subdivision adjoins un-subdivided land susceptible to being subdivided, then the new streets shall be carried to the boundaries of such subdivided land. In addition, the following specific street design criteria in subsection 3, below, shall be met.
 - b. **Access Standards:** Access design and permitting shall comply with sub-section 8.3.6 of this Code and as applicable, any requirements or guidelines as set forth by the Minnesota Department of Transportation.
 - c. **Width and Grade:** The following standards of street design shall be observed by the subdivider:

	Minimum Width		
	(Lot Line to Lot Line)	Maximum Grade	Minimum Grade
Collector streets	80 feet	6%	0.5%
Minor streets	70 feet	6%	0.5%
Marginal access	50 feet	6%	0.5%

- d. **Tangents:** Tangents of at least one hundred feet (100') in length shall be introduced between reverse curves on collector streets and fifty feet (50') on lesser streets.
- e. **Alignment:** Local streets shall be aligned so that their use by through traffic will be discouraged.
- f. **Street Jogs:** Street jogs with center line offsets of less than one hundred twenty five feet (125') shall be avoided.
- g. **Intersections:** Insofar as practical, streets shall intersect at right angles and no intersection shall be at an angle of less than sixty degrees (60°). It must be evidenced that safe and efficient traffic flow is encouraged.
- h. **Street Corners:** Street corners that are not at intersections shall be curved and shall not turn at right angles.
- i. **Cul-De-Sacs:** Unless approved by the Planning Commission, the maximum length of permanent cul-de-sac streets shall be one-thousand three hundred and twenty feet (1320') measured along the center line from the intersection of origin to end of right of way. Each cul-de-sac shall be provided at the closed end with a turnaround having a minimum outside right-of-way diameter of seventy-five feet (75') and a minimum road surface diameter of sixty feet (60'). Cul-de-sacs in the UED shall meet city standards.
- j. **Township Roads Maintained by County:** Any township road in a new subdivision that is intended to be maintained by Clay County shall meet construction and design specifications established by the County Engineer.
- k. **Half Streets:** Half streets shall be prohibited except where the Planning Commission finds it to be practical to require the dedication of the other half when adjoining property is subdivided.
- l. **Street Names:** Street names and numbering shall conform to the established county street numbering system.
- m. **Surfacing:** Street surfacing done by the applicant shall be approved by the County Engineer.
- n. **Private Streets:** Private streets shall not be approved.
- o. **Local Service Drives:** Where a proposed plat is adjacent to a major thoroughfare or railroad right of way, the Planning Commission may require the applicant to provide local service drives along the right of way of such facilities or they may require that lots should back on the thoroughfare, in which case vehicular and pedestrian access between the lots and thoroughfare shall be prohibited.
- p. **Street Arrangements:** The street arrangements shall reflect the design and connect to adjacent subdivisions and shall not be such as to cause hardship to owners of adjoining unplatted property in platting their own land and providing convenient access to it.

- q. **Property Lines at Intersections:** Property lines at street intersections shall be rounded at a radius of not less than ten feet (10') and curb lines on a radius of not less than twenty feet (20').

3. Easements:

- a. **Utility Easements:** Utility easements at least ten feet (10') wide shall be provided for utilities where necessary. They shall be centered on rear and other lot lines or within alley rights of way. They shall have continuity of alignment from block to block. At deflection points, easements for pole line anchors shall be provided where necessary.
- b. **Storm Water Easement:** Where a subdivision is traversed by a watercourse or drainageway, there shall be provided a storm water easement or drainage right of way substantially within the lines of such watercourse, together with such further width or construction or both, as will be adequate for storm water runoff. The easement shall include not only the stream channel, but also adjoining areas that have been subject to flooding in years of heavy runoff.

4. Blocks:

- a. **Length:** Block lengths shall not exceed one thousand two hundred feet (1,200') and, if possible, shall not be less than three hundred feet (300') in length. In blocks longer than eight hundred feet (800'), a pedestrian crossway with a minimum right of way of ten feet (10') shall be required near the center of the block. The use of additional accessways to schools, parks, and other designations may also be required.
- b. **Design:** A block shall be so designed as to provide two (2) tiers of residential lots of appropriate depth, unless it adjoins a railroad, limited access highway or county road, and unless the rear lot line abuts a different land use, body of water, or topographic conditions necessitate a single tier of lots.

5. Lots:

- a. **Side Lot Lines:** Where possible, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Lots with frontage of two (2) parallel streets shall be permitted only under unusual circumstances.
- b. **Design, Orientation:** The lot design and orientation shall be appropriate for the location of the subdivision and for the type of development or use proposed.
- c. **Minimum Setbacks:** Minimum lot line setbacks shall be those specified for the zoning district within which the subdivision is located.
- d. **Vehicular Access:** There shall be no direct vehicular access from residential lots to an arterial street and residential lots shall be separated from major arterial streets and railroad rights of way by a twenty five foot (25') buffer strip, which may be in the form of added depth or width of lots backing on or siding on the thoroughfare or railroad right of way.
- e. **Lot Remnants:** Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans for the future use of such remnants.

- 6. **Natural Features:** In the subdivision of land, due regard shall be shown for all natural features which, if preserved, will add attractiveness and stability to the proposed development.

- F. **Required Improvements:** Before the County Board approves a final plat, the subdivider shall give

satisfactory assurance of the provision of the requirements listed below. Required assurance shall be satisfactory to the County Board and may include financial assurances.

1. **Monuments:** Steel monuments shall be placed at all back corners, angle points, points of curves in streets and at intermediate points as referred by the Planning Commission. All U.S., State, County or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position. The material, size and length of all monuments shall be approved by the County Engineer.
2. **Streets:** All the streets shall be improved in accordance with the engineering specifications established by the County Engineer.
3. **Water Supply:** Safe and potable water shall be provided by a central distribution system serving the subdivision or by individual wells. In all cases, water shall be supplied in accordance with County specifications. In flood plain areas water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
4. **Sanitary Sewer:** Sanitary sewage disposal shall be by a central system serving the subdivision or by individual systems. In all cases, sewage disposal systems shall be provided in accordance with Title 6, Chapter 1 of this Code. The flood prone area's new and replacement sanitary sewers shall be designed to minimize or eliminate infiltration of the flood waters into the system into flood waters and on-site water disposal systems shall be located to avoid impairment or contamination during flooding.
5. **Drainage Facilities:** Drainage facilities and easements shall be installed as will adequately provide for the drainage of surface waters.
6. **Street Name Signs:** Street name signs will be provided and installed by the county.
7. **Stop or Yield Signs:** Stop signs and yield signs shall be placed at streets intersecting highways, arterial streets and collector streets, where the intersection is not of the directional interchange type and as approved by the County Engineer.
8. **Specifications:** All of the required improvements shall conform to engineering standards and specifications as required by the County.

8-7-15: CLUSTER SUBDIVISION REQUIREMENTS

Cluster subdivisions are allowed in the AG Agricultural Zoning District. Cluster subdivisions shall conform to the following requirements:

- A. **Conformance with Zoning District Regulations Density, Location and Design:** A proposed cluster subdivision shall conform to the all of the provisions in Article 8-5D-4 B. of this Ordinance, which includes density, location and design provisions.
- B. **Pre-Application Requirements and Staff Review of Application:** An applicant for a cluster subdivision shall meet the pre-application meeting requirements of section 8-7-10 of this Article, and shall meet the staff review provision of section 8-7-11 of this Article.
- C. **Plat Review:** An application for a cluster subdivision shall be reviewed in the manner of a preliminary and final plat for land division by registration of a plat of subdivision in section 8-7-13, above.
- D. **Required Improvements:** Required improvements for a cluster subdivision shall be those listed in

section 8-7-13, above.

8-7-16: LAND DIVISION BY COMMON INTEREST COMMUNITY PLAT

- A. When Required:** Any proposed land division that involves the creation of a common interest community shall conform to the requirements of this section 8-7-14.
- B. Application and Plat Requirements:** An applicant for a land division by common interest community plat shall meet the following requirements.
 - 1. Pre-Application Requirements and Staff Review of Application:** An applicant for a land division by common interest community plat shall meet the pre-application meeting requirements of section 8-7-10 of this Article, and shall meet the staff review provision of section 8-7-11 of this Article.
 - 2. Preliminary Plat:** After the pre-application meeting and staff review of the application, an applicant shall submit three (3) copies of the following:
 - a. An application on forms provided by the Planning Department;
 - b. A preliminary plat meeting the data requirements of Minnesota Statutes Chapter 515B.2-110; and
 - c. Improvement plans meeting the requirements of section 8-7-14 E, above.
- C. Review of Common Interest Community Plat:** An application for land division by common interest community plat shall be reviewed in the manner of a preliminary and final plat for land division by registration of a plat of subdivision in section 8-7-14, above.
- D. Required Improvements:** Required improvements for an approved common interest community plat shall be those listed in section 8-7-14, above.

8-7-17: UNITED STATES PUBLIC LAND SURVEY MONUMENT RECORD:

- A. Preparation Required:** A United States public land survey monument record must be prepared as part of any land survey which includes or requires the perpetuation or restoration of a United States public land survey corner and one of the following conditions exists:
 - 1. There is no United States public land survey monument record for the corner on file in the office of the county recorder for the county in which the corner is located; or
 - 2. The land surveyor who performs the survey accepts a position for the United States public land survey corner which differs from that shown on a United States public land survey monument record filed in the office of the county recorder for the county in which the corner is located; or
 - 3. The witness ties referred to in an existing United States public land survey monument record have been destroyed.
- B. Certificate of Location of Government Corner:** A United States public land survey monument record must be prepared on a certificate of location of government corner, as specified in Minnesota statutes section 160.15, subdivision 5, as amended and laid out herein.
- C. Position and Other Elements:** A United States public land survey monument record must show the position of the corner and must include all the following elements:

1. The identity of the corner, as referenced to the United States public land survey system;
 2. A description of any record evidence, monument evidence, occupational evidence, testimonial evidence, or any other material evidence considered by the surveyor, and whether the monument was found or placed;
 3. If possible, reference ties to at least three (3) witness monuments made of concrete, natural stone, iron, or other equally durable material, including trees;
 4. A plan view drawing depicting the relevant monuments and reference ties which is in sufficient detail to enable accurate restoration of the corner position if the corner monument has been disturbed;
 5. A description of any significant discrepancy between the position of the corner as restored and the position of that corner as previously restored;
 6. Whether the corner was restored through acceptance of an obliterated evidence position or a found perpetuated position;
 7. Whether the corner was restored through lost corner proportionate methods;
 8. The directions and distances to other public land survey corners which were used as evidence or used for proportioning in determining the corner positions;
 9. Clay County Coordinates – A Northing and an Easting in the Clay County Coordinate System NAD 83 (1996 Adj.) shall be included on each certificate; and
 10. The signature of the land surveyor under whose direction and control the corner position was determined and a statement certifying that the United States public land survey monument record is correct and complete to the best of the surveyor's knowledge and belief.
- D. Manner Of Placement:** The permanent marking of the corners and establishment of reference or witness monuments shall be in the following manner: At the exact location of the corner there shall be placed a stone, concrete, or metal marker not less than four inches (4") in diameter at the top and not less than eighteen inches (18") deep. In the case of a paved highway there shall also be placed over the marker and in the surface of the pavement a metallic plug not less than one inch (1") in diameter and two inches (2") in depth.
- E. Time Of Placement:** Reference or witness monuments evidencing the location of the corner shall be established before the obliteration of the corner in at least two (2) places most practicable and shall consist of stone, concrete, or cast iron.
- F. Filing Of Certificate:** The engineer or surveyor placing and establishing the markers or monuments shall file a certificate to that effect in the office of the county recorder in the county or counties wherein the markers or monuments were placed along with the survey. Each certificate shall contain only the record of markers and monuments at one corner. The county recorder will not charge a fee for filing the certificate, but may still charge a fee for the filing of the survey.
- G. Contents Of Certificate:** The certificates shall be on sheets of durable material, which sheets shall be eight and one-half by eleven inches (8 1/2 x 11") in size with a margin at the left for binding. The certificates shall contain the following:
1. Identification of section, or quarter section corner.
 2. Description of monument removed.
 3. Description of replacement monument.

4. Reference ties or witness monuments.
 5. Statements relating to physical and parol evidence relating to history and authenticity of the corner monument.
 6. Date of re-monumentation.
 7. Certification by a registered surveyor or registered engineer.
- H. Minnesota Statutes Provisions:** Subsections A through C of this section are intended to incorporate the requirements of Minnesota statutes section 381.12, subdivision 3, and shall be deemed amended as that statute may be amended from time to time.
1. Subsections D through G of this section are intended to incorporate the requirements of Minnesota statutes section 160.15, subdivisions two (2) through five (5), and shall be deemed amended as that statute may be amended from time to time.
- I. Failure To Comply:** Failure to comply with the provisions of this section shall result in the Clay County auditor rejecting any affected documents for recording or filing in the office of the Clay County recorder, which documents may include, but not be limited to, deeds, mortgages, surveys, plats, etc.
- J. Document Number:** When a corner certificate is on file relative to an applicable corner, the document number of that certificate must be provided along with the survey, plat, or other document. In each and every circumstance, a document number or corner certificate must be filed along with the plat or survey.

**CHAPTER 8
DEFINITIONS**

8-8-1: RULES OF CONSTRUCTION:

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

- A. The singular number includes the plural and the plural the singular.
- B. The present tense includes the past and future tenses and the future the present.
- C. The word "shall" is mandatory and the word "may" is permissive.
- D. The masculine gender includes the feminine and neuter genders.
- E. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition. If no set definition is given in the Ordinance, the word may be interpreted according to the dictionary definition.

8-8-2: DEFINITIONS:

As used in this Ordinance, the following words and terms shall have the meanings ascribed to them in this Section:

ACCESS: A means of providing vehicular entrance or exit to a property or parcel from an abutting property, public road or right-of-way. Access types include permanent, temporary or field openings.

ACCESS PERMIT: Any field opening, Driveway, public or private street/roadway that provides reasonable access for the movement of vehicles between the county road system and an abutting property.

ACCESS PLAN: A plan reviewed by the County Planning Commission and approved by the Board of Commissioners upon recommendation of the county highway engineer establishing a coordinated plan for Access Connections to the county roadway system as part of an application for subdivision, conditional use permit or a development permit.

ACCESS, PRIVATE: An Access Connection that is privately owned and maintained and which provides the principal means of access to an abutting property.

ACCESS, PUBLIC: An Access Connection under the jurisdiction of a public authority that provides the principal means of access to an abutting property.

ACCESSORY STRUCTURE OR FACILITY: Any building or improvement which is incidental and subordinate to a principal use on the same lot or parcel, which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

ACCESSORY USE: A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ADULT ENTERTAINMENT: Any adult bookstore, strip club, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, or related to specific sexual activities or specified anatomical areas, but not included those uses or activities, the regulation of which is preempted by state law. Any establishment in which adult videos comprise more than fifty percent (50%) of the video products in stock shall be considered an adult entertainment use.

AGENCY: The Minnesota Pollution Control Agency as established in Minnesota Statutes Annotated chapter 116.

AGRICULTURAL SERVICE ESTABLISHMENT: Any service establishment primarily engaged in performing animal husbandry or horticultural services, including businesses performing agricultural milling and processing, harvesting or agricultural land preparation, farm equipment sales and service, veterinary services, boarding or training of horses and agricultural produce stands.

AGRICULTURAL USE: The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for storing the products. The term shall include incidental retail sales by the producer of products raised on the farm.

AIRPORT: Any area of land or water used, or intended to be used, for the landing and taking off of aircraft, and any appurtenant areas used or intended to be used for airport buildings or other airport facilities or right-of-ways, including all necessary taxi ways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces.

AIRPORT HAZARD: Any structure or tree or use of land which obstructs the airspace required for flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

AIRPORT HAZARD AREA: Any area of land upon which an airport hazard might be established.

AMENDMENT: A change in the wording of this Ordinance or change in the zone boundaries upon the Zoning Map.

ANNEXATION: The incorporation of a land area into an existing municipality with a resulting change in the boundaries of that municipality.

ANIMAL FEEDLOT: A lot or building or combination of lots or buildings used for a period of at least forty-five (45) consecutive days during any calendar year for the confined feeding, breeding, raising, or holding of animals and specifically designed as 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. Also included are all adjacent manure storage facilities and areas used for storage and/or disposal of dead animals. For the purposes of this Ordinance, open lots used for the feeding and rearing of poultry shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

ANIMAL MANURE: Poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, or other materials.

ANIMAL UNIT: The unit of measure used to determine the appropriate density at which livestock and poultry can be raised subject to the restrictions imposed by this Ordinance. For purposes of this Ordinance, the multiplication factors as set forth in Minnesota Rules Chapter 7020.0300, as currently set and as amended from time-to-time, shall apply.

APPROACH AREA: That part of an airport hazard area as designated on the height zone map, along each side of the extended center line of a runway and lying below the normal glide path of aircraft approaching the runway to land.

AUTOMOBILE SERVICE STATION: Any building, structure or land used primarily for the dispersal, sale, or offering for sale of automotive fuels, oils, automobiles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement or rebuilding, body and fender repair, or painting.

AUTO WRECKING AND JUNKYARD: An open area where waste, used or secondhand materials or automobiles are bought, sold, exchanged, stored, baled, packed, disassembled or handled. A "junkyard" includes an auto wrecking yard, but does not include uses established entirely within an enclosed building.

BAR: An area primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

BASEMENT: (residential and non-residential) Any area of a structure, including crawl spaces, having the upper surface of its floor or base subgrade (below ground level) on all four (4) sides, regardless of the depth of excavation below ground level.

BASE FLOOD ELEVATION (BFE): The elevation of surface water resulting from a flood that has a one (1) percent probability of equaling or exceeding that level in any given year as determined by the Federal Emergency Management Agency. The BFE is shown on the Flood Insurance Rate Map (FIRM) as zone AE. Base Flood, regional flood, and 100-year flood are synonymous.

BED AND BREAKFAST: A private residence that offers sleeping accommodations for rent to lodgers in four (4) or fewer rooms, in the innkeeper's (owner or operator) principal residence, and serves breakfasts to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed-and-breakfast establishment for fewer than fourteen (14) consecutive days.

BLUFF: A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

- A. Part or all of the feature is located in a shoreland area;
- B. The slope rises at least twenty-five feet (25') above the ordinary high water level of the water body;
- C. The grade of the slope from the toe of the bluff to a point twenty-five feet (25') or more above the ordinary high water level averages thirty percent (30%) or greater; and
- D. The slope must drain toward the water body.

BLUFF, TOE: The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of the lowest ten (10) foot segment that exceeds eighteen (18) percent slope.

BLUFF, TOP: The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of the highest ten (10) foot segment that exceeds eighteen (18) percent slope.

BLUFF IMPACT ZONE: Land located within a bluff.

BOARD OF ADJUSTMENT: The Clay County Board of Adjustment as described in the administrative section of this Ordinance and authorized under Minnesota Statutes, section 394.27.

BOARD OF COMMISSIONERS: See COUNTY BOARD

BUILDABLE AREA: The upland area of a lot remaining after the minimum yard setback requirements of this Ordinance have been complied with.

BUILDING: A structure, either temporary or permanent, having a roof or other covering, and designed for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building.

BUILDING HEIGHT: The vertical distance between the highest adjoining ground level at the building, or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

BUILDING LINE: A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

BUILDING SETBACK LINE: A line parallel with the street right-of-way line, private road, property line, ordinary high water mark, or access easement, at the required setback beyond which a building may not extend.

CAMPGROUND: An area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind.

CEMETERY: Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries if operated in connection with, and within the boundaries of such cemetery.

CENTRALIZED WATER AND SEWER SYSTEMS; CENTRALIZED UTILITIES: Utilities systems serving a group of buildings, lots, or an area of the County, with the design and construction of such utility systems as approved by the County and/or the State of Minnesota. A centralized sewer system may include, but is not limited to, a community mechanical treatment system or a shared mound septic system.

CERTIFICATE OF COMPLIANCE: A letter from the Director or County Feedlot Pollution Control Officer to the owner of an animal feedlot stating that the feedlot meets agency requirements.

CHANGE IN OPERATION: An increase beyond the permitted maximum number of animal units, an increase in the number of animal units which are confined at an unpermitted animal feedlot requiring a construction investment, or a change in the construction operation of an animal feedlot that would affect the storage, handling, utilization, or disposal of animal manure.

CLUSTER DEVELOPMENT: A pattern of subdivision development which places housing units into compact groups.

COMMERCIAL AGRICULTURE: The use of land for commercial agricultural purposes including farming, dairying, pasturage, horticulture, floriculture, animal and poultry husbandry and the necessary accessory buildings and accessory uses for packing, treating or storing produce; provided agricultural revenues shall be the principal source of income from any operations.

COMMERCIAL USE: The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

COMMISSIONER: The Commissioner of the State Department of Natural Resources.

COMMUNICATION TOWER: A structure that is used primarily as a communication antenna or as a communication antenna support structure.

COMPREHENSIVE PLAN: A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private of the County and its environs and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

CONDITIONAL USE: A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls and upon a finding that:

- A. Certain conditions as detailed in Section 8-4-6 of this Ordinance exist; and
- B. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

CONSERVATION EASEMENT: A legal agreement restricting development of farmland or natural areas. Lands subject to a conservation easement are generally restricted to farming and open space uses. A conservation easement does not imply any right of public access, except for periodic monitoring by the agency or entity holding the easement.

CORRECTIVE OR PROTECTIVE MEASURE: A practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal feedlot to a level of conformity with Agency rules.

COUNTY: Clay County, Minnesota.

COUNTY BOARD: The Clay County Board of Commissioners.

COVENANTS: Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

CROP EQUIVELANCY RATING: The weighted average per quarter-quarter section of land that represents the relative net economic return per acre of soil as reflected by the differences in productivity between soils, as determined by the University of Minnesota.

DAY CARE: Any facility operated for the purpose of providing care, protection and guidance to seven (7) or more individuals during only part of a 24-hour day, outside their place of residence. This term includes nursery schools, preschools, day care centers for adults, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

DECK: 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 three feet (3') above ground.

DEVELOPMENT: The performance of any building or mining operations, the making of any material change in the use of any structure or land, the parceling of land into one or more lots, tracts or parcels and the creation or termination of rights of access or riparian rights.

DEVELOPMENT ORDER: Any approval, conditional approval or denial of a development permit by the County Board of Commissioners, Planning Commission, Board of Adjustment, administrative officer or employee, board or individual responsible for administration of this Ordinance.

DEVELOPMENT PERMIT: Any permit customarily called a building permit, zoning certificate, conditional use permit, subdivision plat, zoning amendment, certification, variance or other action having the effect of permitting development.

DIRECTOR: The Executive Director of the Minnesota Pollution Control Agency whose duties are defined in Minnesota Statutes Annotated section 116.03.

DOMESTIC FERTILIZER:

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

DRINKING WATER SUPPLY MANAGEMENT AREA (DWSMA): An area, including the entire wellhead protection area, determined using identifiable landmarks such as roads and property boundaries within which drinking water supply activities are managed.

DRIVEWAY: A roadway or opening constructed for vehicular travel and which is privately owned and maintained; and provides the principal means of access to three (3) or fewer abutting parcels or residences.

DWELLING OR DWELLING UNIT: A residential building or portion thereof including mobile homes, intended for occupancy by a single person or family but not including hotels, motels, boarding or rooming houses or tourist homes.

DWELLING, SINGLE FAMILY: A building containing one dwelling unit only, including a manufactured home with one dwelling unit.

DWELLING SITE: A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

DWELLING, TWO FAMILY: A building containing two (2) dwelling units. Also a duplex.

EQUAL DEGREE OF ENCROACHMENT: A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

ESSENTIAL SERVICES: Underground or overhead gas, electrical, steam, water, television, telephone, sanitary or storm sewer distribution systems, including poles, wires, pipes, conduits, cables and accessory equipment in conjunction therewith, except buildings as are required for the protection of the public health, safety and general welfare.

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

FAMILY: An individual or two (2) or more persons related by blood, marriage or adoption, living together, or a group of not more than five (5) persons who need not be related by blood, marriage or adoption living together as a single housekeeping unit in a dwelling unit.

FARM: Real property used for commercial agriculture or horticulture comprising at least thirty-five (35) contiguous acres and which may contain other contiguous or noncontiguous acreage, all of which is owned, rented and operated by a single family, family corporation, individual, corporation or partnership.

FARM BUILDING: Any building or accessory structure other than a farm or nonfarm dwelling which is used in a farm implement storage building or milk house.

FARMER: Any individual, partnership, association or corporation that cultivates, operates or manages a farm either as an owner or tenant.

FARM HOMESTEAD: The site used for a farm dwelling and associated farm buildings occupied by a farmer or farm dwelling. All building sites classified by the County Assessor as farm homesteads shall be considered to meet the requirements of this provision.

FARM STAND: A structure used seasonally from which agricultural products grown by the owner of the site on which the farm stand is located are sold.

FEEDLOT OPERATOR: An individual, a corporation, a group of individuals, a partnership or joint venture or any other entity having charge or control of one or more feedlots.

FEMA: Federal Emergency Management Agency

FIELD ACCESS/OPENING: An Access Connection to an agricultural field used for the movement of farm vehicles and equipment. Access to a farmstead, feedlot, farm-related structures or uses contemplated under the AGRICULTURAL USE definition, exclusive of any uses that fall within this definition, are not considered a field access or opening.

FLOOD: A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY: The frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE: That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Clay County, Minnesota and Incorporated Areas.

FLOOD INSURANCE RATE MAP (FIRM): The Flood Insurance Rate Map, "Clay County, Minnesota and Incorporated Areas", dated April 17, 2012 and prepared by the Federal Emergency Management Agency.

FLOOD INSURANCE STUDY: The Flood Insurance Study, "Clay County, Minnesota and Incorporated Areas", dated April 17, 2012 and prepared by the Federal Emergency Management Agency.

FLOOD PLAIN: The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the 100-year flood as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.

FLOODPROOFING: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages. For the purpose of this Ordinance, the classification of buildings and structures (FP-1 through FP-4) shall be as defined in section 210.1 of the 1972 edition and any amendments thereto of "Flood Proofing Regulations," as developed by the office of the Chief Engineers, U.S. Army, Washington, D.C.

FLOODWAY: The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry, store, and discharge the regional flood as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.

FOREST LAND CONVERSION: The clear-cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

FOREST MANAGEMENT: Activities conducted on or directly pertaining to forest land relating to the growing, managing, harvesting, and interim storage or merchantable timber for commercial value.

GARAGE, PRIVATE: An accessory building housing non-commercial motor driven vehicles that are the property of and for the private use of the occupants of the lot on which the private garage is located.

GEOLOGIC SENSITIVITY: The Minnesota Department of Natural Resources (DNR) identifies sensitive areas as geographic areas defined by natural features where there is significant risk of ground-water degradation from activities conducted at or near the surface (Minn. Stat. Sec. 103H.005). The natural features are the geologic conditions in the area. This approach is called intrinsic or geologic sensitivity.

GOLF COURSE: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens fairways, and hazards. A golf course includes a clubhouse and shelters as accessory uses.

GOVERNMENTAL FACILITY: A building or structure owned, operated, or occupied by governmental agency to provide a governmental service to the public.

HARDSHIP: The same as that term is defined in Minnesota Statutes Annotated chapter 394, as amended.

HISTORIC SITE: A location set aside for no other purpose than to commemorate a historical event, activity, or person.

HOME OCCUPATION: An occupation, profession or craft which is customarily incidental to or carried on at a residential dwelling site or farm homestead and serving a local service area.

IRRIGATION SYSTEM: A permanent, artificial watering system designed to transport and distribute water to plants.

INTENSIVE VEGETATION CLEARING: The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

INTERIM PERMIT: A permit issued by the Director or County Feedlot Pollution Control Officer which expires no longer than ten (10) months from the date of issue.

KENNEL: Any lot or premises on which four (4) or more dogs or cats of over three (3) months of age are kept or raised.

LANDFILL: A State licensed site used for disposing of solid wastes, including organic materials such as garbage.

LAND USE: The development existing on land.

LEVEE: A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LOT: A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation, and which is of sufficient size to meet minimum requirements of this Ordinance or, when used in reference to a feedlot, is an open air space designed to confine livestock.

LOT AREA: The area of a lot in a horizontal plane within the lot lines.

LOT CORNER: A lot which occupies the interior angle at the junction of two (2) intersecting street lines, which make an angle not exceeding one hundred thirty-five degrees (135°).

LOT DEPTH: The mean horizontal distance between the front lot lines and the rear lot line of a lot.

LOT LINE, FRONT: That boundary of a lot which abuts an existing or dedicated public street and in the case of a corner lot, the shortest dimension on a public street which meets County specifications. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner.

LOT LINE, REAR: That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet (10') in length or if the lot forms a point at the rear, the rear lot line shall be a line ten feet (10') in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE: Any boundary of a lot which is not a front lot line or rear lot line.

LOT OF RECORD: Any lot that has been recorded in the office of the County Recorder of Clay County, Minnesota, prior to the effective date hereof.

LOT WIDTH: The width of a lot along a line parallel to the frontage thereof and lying at a distance therefrom equal to the required setback on such lot.

LOWEST FLOOR (Floodplain definition): The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for the parking of vehicles, building access, or storage in an area other than the basement area, is not considered a building's lowest floor.

MAINTENANCE OR MINOR REPAIRS: Includes nonstructural repair and structural alteration which does not expand the external dimensions of a building or structure.

MANUFACTURED HOME (Floodplain Definition): A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

MANUFACTURED HOME: A structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on 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 all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development (HUD) and complies with the standards established in Minn. Stat. 2004, Chapter 327.31.

MANURE STORAGE AREA: An area associated with an animal feedlot where animal manure or runoff containing animal manure is stored, temporarily, until it can be utilized as domestic fertilizer applied at agronomic rates or removed to a permitted animal manure disposal site. Examples include, but are not limited to; earthen basins or lagoons, concrete basins or lagoons, or commercial storage tanks. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage for these parts.

MARINA: A dock or basin where slips, moorings and often supplies, repairs, and other services are available for craft.

MARKET VALUE: An estimate of what is a fair, economic, just and equitable value under normal local market conditions as arrived at by a consideration of prior sales of the property being acquired, reasonably recent and not forced. In the absence of accurate comparables (basis for past sales), market values may be determined through other means including calculations of replacement costs less depreciation.

METES AND BOUNDS: A description of real property which is not described by reference to a lot or block shown on a map or a recorded plot, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property.

MOBILE HOME: A dwelling unit that does not meet the standards for a manufactured home and is designed for transportation after fabrication on streets and highways on its own wheels or on a flatbed or other trailer and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundation connections to utilities and the like. See **MANUFACTURED HOME**.

MOTEL: A building or group of attached or detached buildings containing individual sleeping or living units primarily for transient occupancy. A "motel" furnishes customary services such as maid service and linen laundering and desk service, and with parking facilities conveniently located to each unit.

MOTOR SPORTS FACILITY: A track or course, paved or unpaved, and associated facilities for the racing or driving of automobiles, tractors, motorcycles, motorized bicycles, or any other motorized vehicle.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP): The program of flood insurance coverage and floodplain management administered under the National Flood Insurance Act and applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT: A permit issued by the Agency for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations.

NEW ANIMAL FEEDLOT: An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of five (5) years or more.

NIGHTCLUB: Any room, place, or space maintained for general patronage where food and drink are served or dispensed and where patrons are permitted to engage in dancing.

NONCONFORMING ACCESS: An Access Connection to a property or parcel that existed prior to the effective date of this ordinance that does not conform with the requirements of this ordinance.

NONCONFORMING STRUCTURE: A structure or portion thereof lawfully existing on the effective date of this amendment and that does not conform to the dimensional and flood protection regulations (i.e., bulk, yard, setbacks, height, floodproofing, etc.) of the district in which it is located.

NONCONFORMING USE: A use of land, building or structures lawfully existing at the time of adoption of the Ordinance codified in this Ordinance or amendment thereof which does not comply with all the provisions of this Ordinance the applicable use regulations of the district in which it is located.

NONCONFORMITY: 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.

NURSERY, RETAIL: The retail handling of any article, substance, or commodity related to the planting, maintenance, or harvesting of garden plants, shrubs, trees, packaged fertilizers, soils, chemicals, or other nursery goods and related products in small quantities to the consumer.

OBSTRUCTION: 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 flood plain 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.

OFFICE: Non-residential space that is used primarily for administrative, clerical, professional or similar activities.

ORDINARY HIGH WATER LEVEL (OHWL): 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.

OWNER: All persons having possession, control, or Ordinance to an animal feedlot or other parcel of land as described in each specific section.

PARCEL OF LAND: Any quantity of land capable of being described with such definiteness that its location and boundaries may be established which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit. Parcel includes an easement supporting or related to a primary parcel.

PARK: Any public or private land available for recreational, educational, cultural, or aesthetic use.

PARKING SPACE: An off-street area of motor vehicles not less than ten feet by twenty feet (10' x 20') in area, having access to a public street or alley or private driveway. In determining the gross area required for a specified number of off-street parking places including driveways and aisles three hundred (300) square feet per space shall be used.

PASTURES: Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices, corrals and pasture lanes.

PICNIC GROUND: Two or more picnic tables reserved for use by 10 or more persons equipped with picnic tables, barbecue stands, and may be provided with a roofed shelter.

PLAYHOUSE: A freestanding structure, exclusively for the use of children, with a maximum height of 12 feet and an area not to exceed 120 square feet.

POOL HALL: A business establishment containing more than two pool or billiard tables for the use of patrons.

POTENTIAL POLLUTION HAZARD: A condition which indicates a potential for pollution of the land or waters of the State including:

- A. An animal feedlot or manure storage area whose boundaries are located within shoreland, flood plain, or are located in an area draining directly to a sinkhole or draining to an area with shallow soils overlying a fractured or cavernous rock, or are located within one hundred feet (100') of a water well; or
- B. An animal feedlot or manure storage area whose construction or operation will allow a discharge of pollutants to surface waters of the State in excess of applicable standards, including, but not limited to, Minnesota Rules chapter 7050, during a rainstorm event of less magnitude than the 25-year, 24-hour event, or will allow uncontrolled seepage of pollutants into ground water, or will violate any applicable State rules.

POULTRY LOT: A confined area or structure used intensively for raising, feeding, breeding or holding chickens, turkeys and other poultry for eventual sale or the production of eggs, not including areas normally used for the growing of crops.

PRESERVE: Open space that preserves or protects endangered species, a critical environmental feature, or other natural feature.

PRINCIPAL USE OR STRUCTURE: All uses or structures that are not accessory uses or structures.

PUBLIC WATERS: Any waters as defined in Minnesota Statutes Annotated section 105.37, subdivisions 14 and 15.

QUARTER/QUARTER SECTION: An approximately forty (40) acre parcel of land constituting the northeast, northwest, southeast or southwest quarter of a quarter section in the United States Government System of Land Survey.

REACH: 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 (2) consecutive bridge crossings would most typically constitute a reach.

RECREATIONAL VEHICLE: a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

REGIONAL FLOOD: A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what has a one (1) percent probability of occurring in any given year and 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, the term 100-Year Flood or the term one (1) percent annual chance flood.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE): An elevation not less than one (1) foot (freeboard) above the water surface profile associated with the 100-year flood as determined by the use of the 100-year flood profile and supporting technical data in the Flood Insurance Study plus any increase in flood heights attributable to encroachment in the floodplain due to designation of the floodway (stage increase). It is the elevation to which uses regulated by this Ordinance are required to be elevated or floodproofed except for certain residential basements as stipulated in this Ordinance.

RELIGIOUS INSTITUTION: A building, together with its accessory buildings, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

REPLACEMENT COSTS: The current cost of rebuilding a structure to its pre-damaged condition.

RESTAURANT: A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute more than 80 percent of the gross sales receipts for food and beverages.

RESTAURANT, DRIVE-IN: An establishment whose primary business is serving food to the public for consumption on the premises by order from and service to vehicular passengers outside the structure, where revenues from the sale of food equal at least 40 percent of the gross revenue.

RETAIL: The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

RETREAT CENTER: A semipublic use oriented to using the natural features and outdoor character of the area for short term stays and featuring educational, contemplative and human development workshops and related training activities, which may include the following: religious worship and workshops; life events (i.e. weddings, reunions, birthdays); passive recreation (non-motorized) oriented to appreciating the outdoor and natural character of the area; a nature center, conservatory, interpretive center, exhibit, museum or library space; residential building(s) (rooms or cabins) for short term occupancy by a single family or unrelated individuals attending an educational or life event or workshop at the retreat (but not designed or intended for use as a residence); and/or having limited communal facilities for dining, sanitation, meeting, educational or worship purposes.

RIGHT-OF-WAY: Land in which the county has an interest (including, but not limited to, by fee title, easement or plat dedication), which is primarily intended, directly or indirectly, to be used for a highway, street, road, alley or drainage facility.

ROAD: A public thoroughfare twenty feet (20') in width or more in which supporting access by pedestrians and motor vehicles to abutting properties including without limitation streets, highways, freeways, parkways, thoroughfares, roads, avenues, boulevards, lanes or places, however described; however, not including privately owned driveways and access routes.

SALVAGE YARD: A lot or portion thereof where waste, discarded or salvaged materials are bought, sold, exchanged, baled, stored, packed, disassembled or handled, including auto wrecking activities, building wrecking activities, used lumber places and places for storage of salvaged building materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building.

SCHOOL: An institution for the teaching of children or adults including public, private or religious primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

SEMI-PUBLIC USE: 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 AREAS: include shorelands; delineated flood plains (along Red River only includes 1,000 feet from bank); federal, state or local wild and scenic river districts; within 1,000 feet of a karst feature (sinkhole, cave, disappearing spring, resurgent spring, karst window, dry valley or blind valley); within 1,000 feet of a fen, spring or flowing well; sites listed on the Clay County Biological Survey; vulnerable parts of delineated drinking water supply management areas; and those areas having a “very high” sensitivity rating to pollution as shown on Plate 4 of 4, “Sensitivity of Surficial Aquifers to Pollution” from the MN DNR Regional Hydrogeologic Assessment Southern Red River Valley, Minnesota, 2000.

SENSITIVE RESOURCE MANAGEMENT: The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SERVICE BUSINESS: A retail business offering services, rather than products, as the primary business. Products may be sold that are incidental to the service. Examples include, septic cleaning, catering, rug and carpet cleaning, accounting, etc.

SETBACK: The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

SEWAGE TREATMENT SYSTEM: A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Ordinance 6, Chapter 1 of this Code.

SEWER SYSTEM: Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

SHELTERBELT: A linear area of trees and/or shrubby vegetation designed to shelter buildings from wind and snow accumulation.

SHOOTING RANGE: An area or structure specially designed for the safe discharge and use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any similar firearm for the purpose of sport shooting or military/law enforcement training.

SHORE IMPACT ZONE: Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback.

SHORELAND: Land located within the following distances from public waters:

- A. One thousand feet (1,000') from the normal high water mark or a lake, pond, or flowage; and
- B. Three hundred feet (300') from a river or stream.

The limits of shoreland may be reduced whenever the waters involved are bounded by natural topographic divides which extend landward for a lesser distance and when approved by the Commissioner of the Department of Natural Resources.

SIGN: A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

SIGN, OFF-SITE: A sign which directs attention to a business, commodity, service, activity or entertainment not conducted, sold or offered upon the premises where the sign is located.

SIGNFACE: The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face V-type sign structure shall be used in computing the total surface area.

SIGN, TEMPORARY: A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wall board or similar material and intended to be displayed for a limited period of time but does not include candidate advertisements.

SIGN, WALL: A sign attached to a wall and not projecting away from the wall more than 12 inches.

SIGNIFICANT HISTORIC SITE: 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 Minnesota Statutes Annotated section 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 Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

SINKHOLE: A surface depression which is connected to cavernous bedrock (generally limestone) by a channel or collapse of the overlying formation.

SPECIAL FLOOD HAZARD AREAS: Any of the areas delineated on Flood Insurance Rate Maps as Zone AE or Zone A.

START OF CONSTRUCTION: The first placement of permanent construction on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation or the affixing of any prefabricated structure

or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading or filling; excavation for basement, footings, piers or foundations; installation of sewer, gas and water pipes or electric or other service lines from the street or existence on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not a part of the main structure.

STEEP SLOPE: 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 Ordinance. Where specific information is not available, steep slopes are lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty feet (50') or more, that are not bluffs.

STORAGE STRUCTURE, RESIDENTIAL: A structure to be used, or intended to be used, for the private noncommercial, nonindustrial storage uses by the property owner prior to the construction of a residence on the property.

STREET CLASSIFICATION: All streets are to be considered classified under the following categories in the County Comprehensive Plan:

Arterial Street and Highways: Those which are used primarily for fast or heavy traffic.

Collector Street: Those which carry traffic from minor streets to the major system of arterial streets and highways, including principal entrance streets of a residential development and streets for circulation within such a development.

Minor Streets: Those which are used primarily for access to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

STRUCTURAL ALTERATION: Any change, other than maintenance and minor repairs which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

STRUCTURE: 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, decks, manufactured homes recreational vehicles not meeting the exemption criteria specified elsewhere in this Ordinance and other similar items.

SUBDIVISION: Land, vacant or improved, which is divided or proposed to be divided into lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision. Subdivision includes the division or development of residential and nonresidential zoned land excluding a division of land for commercial agricultural purposes into lots or parcels of five (5) acres or more, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument.

SUBSTANTIAL DAMAGE: Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Within any consecutive 1,825 day (five year) period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the initial improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- b. Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

SURFACE WATER-ORIENTED COMMERCIAL USE: The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conducting of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

SWIMMING POOL, PRIVATE: An accessory use established or maintained on any premises by an individual for personal or family use or for guests of the individual or family.

SWIMMING POOL, PUBLIC: A swimming pool, admission to which may be gained by the general public with or without payment of a fee.

SWIMMING POOL, SEMI-PRIVATE: A swimming pool on the premises of, or part of, a hotel, motel, mobile home or travel trailer park, apartment house, private club, association or similar establishment, where admission to the use of the pool is included in the fee, or consideration paid or given for the general use of the premises.

TEMPORARY USE: Those land uses and insubstantial structures that are needed or are in place for only short periods of time not exceeding three (3) months and not intended for long-term or permanent use.

TRAIL: A publicly owned or maintained trail/path system, including trailheads as defined in the parks and recreation master plan. Trailheads may include parking lots, drinking fountains, restrooms, and signage.

TRANSIENT AGRICULTURAL LABOR: Person employed in farming operations on the premises where housed or other lands owned by the owner of the premises, provided that said persons may be employed a maximum of eight (8) weeks.

VARIANCE: A modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a practical difficulty or unique circumstance, but not including a use not allowed in the applicable zoning district.

WELLHEAD PROTECTION AREA (WHPA): The surface and subsurface area surrounding a well that supplies a public water system, through which contaminants are likely to move through and reach the

well. WHPA boundaries are scientifically calculated using the following criteria: time of travel of substances; flow boundaries; daily volume of water pumped; groundwater flow field; and aquifer transmissivity.

WETLAND: A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39, 1971 Edition and any amendments thereto.

WHARF: Any structure built or maintained for the purpose of providing a berth place for vessels.

WHOLESALE BUSINESS: A business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIND BREAK: A linear area of trees and/or shrubby vegetation designed to decrease wind flow and accumulate snow away from roads.

YARD: An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

YARD, FRONT: A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such a lot is located.

YARD, REAR: A space extending between the rear line of the main building and the rear line of the lot and extending the full width of the lot. In the case of through lots and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot at the rear building line to the rear line of the half-depth front yard. Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear yard line (rear building line) of a required rear yard shall be parallel to the straight line so established.

YARD, SIDE: An open, unoccupied space on the same lot with a building, located between the building and the side lot line of the lot and extending from the front lot line to the rear lot line.

CLAY COUNTY RENEWABLE ENERGY ORDINANCE

ORDINANCE 2018-02

SECTION 1 TITLE

The title of this ordinance is the Clay County Renewable Energy Ordinance, and will be referred to herein as “this Ordinance”.

SECTION 2 PURPOSE

1. This ordinance is established to set forth processes for permitting Renewable Energy from eligible energy technology as described in Minnesota Statutes 216B.1691, to promote the health, safety, and general welfare of the citizens of Clay County, and shall include the following:
 - A. Wind Energy Conversion Systems (WECS) with a rated capacity of less than 25,000 kilowatts (kW) or 25 megawatts (MW), and to regulate the installation and operation of WECS within Clay County not otherwise subject to siting and oversight by the State of Minnesota pursuant to Minnesota Statutes, Chapter 216F, Wind Energy Conversion Systems, as amended.
 - B. Large and small Solar Energy Systems, and to regulate the installation and operation of a Solar Energy System within Clay County pursuant to Minnesota Statutes Chapters 216C.25, 500.30, and Minnesota Rules Chapter 1325.1100, as amended.

SECTION 3 JURISDICTION

The regulations of this Ordinance shall apply to all the area of Clay County outside the incorporated limits of municipalities.

SECTION 4 INTERPRETATION

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Where the provisions of this Ordinance impose greater restriction than those of any statute, other ordinance or regulations, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

SECTION 5 DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Ordinance. If not specifically defined in this Section or in Chapter 8 of the Clay County Zoning Ordinance, terms used in this Ordinance 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 Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

1. **Accessory Use.** A use clearly incidental or subordinate to the principle use of a lot or a building located on the same lot as the principle use.
2. **Aggregated Project.** Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.
3. **Array (Solar).** Any number of solar photovoltaic modules or panels connected together to provide a single electrical output.
4. **Board of Adjustment.** An officially constituted quasi-judicial body appointed by the County Board whose principle duties are to hear appeals from decisions of the Zoning Administrator and, where appropriate, grant variance from the strict application of this Ordinance.
5. **C-BED Project.** A C-BED Project is a Community Based Energy Development Project that must have local owners; no single owner may be allowed to own more than 15 percent of a project; must have a local resolution of support; and the Power Purchase Agreement must ensure levelized cash flow to the project owners. Based on their total name plate generating capacity, C-BED Projects are considered Micro-WECS, Non-Commercial WECS or Commercial WECS as defined in this Section.
6. **Commercial WECS.** A WECS of equal to or greater than 100 kW in total name plate generating capacity.
7. **Comprehensive Plan.** Comprehensive plan means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the unincorporated area of the county.
8. **Conditional Use.** A land use or development as is defined by the Clay County Zoning Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon the finding that: (1) certain conditions as detailed in the Zoning Ordinance exist, and (2) use or development conform to the comprehensive plan of the County and (3) is compatible with the existing neighborhood.
9. **County.** Clay County, Minnesota.
10. **County Board.** Includes the County Commissioners, the Board of County Commissioners or any other word or words meaning the Clay County Board of Commissioners.

11. **Eligible Energy Technology.** As defined in Minnesota Statutes 216B.1691.
12. **Fall Zone.** The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
13. **Feeder Line.** Power lines that transport electrical power from one or more wind turbines to the point of interconnection with a high voltage transmission line.
14. **Generator nameplate capacity.** The maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a nameplate physically attached to the generator.
15. **High-voltage transmission line.** A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.
16. **Large Solar Energy System.** A solar farm, where the primary land use of the parcel is for a solar array. Solar farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and generally have a Direct Current (DC) rated capacity greater than 100 kilowatts.
17. **Meteorological Tower.** For the purposes of this Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.
18. **Micro-WECS.** Micro-WECS are WECS of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.
19. **Module (Solar).** A number of individual solar cells connected together in an environmentally protected housing producing a standard output voltage and power. Multiple modules/panels can be assembled into an array for increased power and/or voltage.
20. **Native Prairie Plan.** The plan shall address steps to be taken to identify native prairie within the project area, measures to avoid impacts to native prairie, including foundations, access roads, underground cable and transformers, shall not be placed in native prairie unless addressed in the prairie protection and management plan.
21. **Non-Commercial WECS.** A WECS of less than 100 kW and greater than 1 kW in total name plate generating Capacity.
22. **Photovoltaic Array.** A group of solar photovoltaic modules connected together to increase voltage and/or power to the level required for a given system.
23. **Photovoltaic Device.** 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.
24. **Power Purchase Agreement.** A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

25. **Project Boundary/Property line.** The boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.
26. **Public conservation lands.** Land owned in fee title by State or Federal agencies and managed specifically for [grassland] conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
27. **Renewable Energy.** Energy from sources that are not easily depleted such as moving water (hydro, tidal and wave power), biomass, geothermal energy, solar energy, wind energy, and energy from solid waste treatment plants.
28. **Rotor diameter (RD).** The diameter of the circle described by the moving rotor blades.
29. **Small Solar Energy System.** A solar array that is an accessory use.
30. **Solar cell.** The basic unit of a photovoltaic solar panel.
31. **Solar Easement.** A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined in Section 216C.06, Subdivision 17, to solar energy. Required contents of a Solar Easement are defined in Minnesota Statute Section 500.30.
32. **Solar energy system.** 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.
33. **Substations.** Any electrical facility designed to convert electricity produced by wind turbines to a voltage for interconnection with transmission lines.
34. **Total height.** The highest point, above ground level, reached by a rotor tip or any other part of the WECS.
35. **Total name plate capacity.** The total of the maximum rated output of the electrical power production equipment for a WECS project.
36. **Tower.** Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.
37. **Tower height.** The total height of the WECS exclusive of the rotor blades.
38. **Tracking Solar Array.** A solar array that follows the path of the sun during the day to maximize the solar radiation it receives.

39. **WECS - Wind Energy Conversion System.** A device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy, including, but not limited to: power lines, transformers, substations, and meteorological towers. The energy may be used on-site or distributed into the electrical grid.
40. **Wind Easement.** A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds. Required contents of a Wind Easement are defined in Minnesota Statutes Section 500.30.
41. **Wind Turbine.** Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.
42. **Windmill, Functional.** A structure utilizing wind power for the pumping of water for agricultural use on the parcel of property on which the windmill is located.
43. **Windmill, Ornamental.** A non-functional windmill used for decoration.
44. **Zoning Ordinance.** The Clay County Zoning Ordinance.

SECTION 6 PROCEDURES

SUBDIVISION 1 PERMIT APPLICATION FOR WECS

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Clay County Zoning Ordinance and Minnesota Statutes Chapter 394, except where noted below. An application to the County for a permit under this section is not complete unless it contains the following:

1. Letter from the State Agency responsible for size determination of a project, pursuant to Minnesota Statutes, Chapter 216F.011, as amended.
2. The names and addresses of project applicant.
3. The names and addresses of the project owner. For C-BED projects, must provide percent of ownership for each of the project owners.
4. The legal description and address of the project.
5. A description of the project including: Number, type, total name plate generating capacity, tower height, rotor diameter, total height of all wind turbines, and means of interconnecting with the electrical grid.
6. Site layout, including the location of project area boundaries (purchased wind rights), property lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
7. Documentation of land ownership or legal control of the property and current land use on the site and surrounding area.
8. Signed copy of the Power Purchase Agreement or documentation that the power will be utilized on-site.
9. The latitude and longitude of all WECS and Meteorological towers.
10. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the Proposed WECS.
11. Location of wetlands, scenic, and natural areas including bluffs within 1,320 feet of the proposed WECS.
12. Copies of all permits or documentation that indicates compliance with all other applicable State and Federal Regulatory Standards:
 - A. Uniform Building Code, as amended.
 - B. The National Electrical Code, as amended.
 - C. Federal Aviation Administration (FAA), as amended.
 - D. Minnesota Pollution Control Agency (MPCA)/Environmental Protection Agency (EPA), as amended.
 - E. Microwave Beam Path Study
 - F. Acoustical Analysis

13. Location of all known Communications Towers within 2 miles of the proposed WECS.
14. Location of all known public or private Airports or Heliports within 5 miles of the proposed WECS.
15. Detailed Decommissioning Plan including how decommissioning costs would be covered. Applicant may be required to establish an escrow account to fund decommissioning costs.
16. Description of potential impacts on nearby WECS and wind resources on adjacent properties. A Wake Loss Study may be required if the county determines the proposed project may have a significant impact on nearby WECS.
17. Additional information stated in Minnesota Rules, part 7836.0500 (subpart 1), as amended.
18. Identification of Haul Routes to be utilized for material transportation and construction activities: State, Federal, County and/or Township roads. Must provide written documentation that all haul routes have been approved by each of the road authorities with jurisdiction.
19. Locations and site plans for all temporary, non-residential construction sites and staging areas.

SUBDIVISION 2. PERMIT APPLICATION FOR SOLAR ENERGY SYSTEMS

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Clay County Zoning Ordinance and Minnesota Statutes Chapter 394, except where noted below. An application to the County for a permit under this section is not complete unless it contains the following:

1. A site plan of existing conditions showing the following:
 - A. Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
 - B. Existing public and private roads, showing widths of the roads and any associated easements.
 - C. Location and size of any abandoned wells, sewage treatment systems and dumps.
 - D. Existing buildings and any impervious surface.
 - E. Topography at 2' intervals and source of contour interval. A contour map of the surrounding properties may also be required.
 - F. Existing vegetation (list type and percent of coverage; i.e. grassland, plowed field, wooded areas, etc.)
 - G. Waterways, watercourses, lakes and public water wetlands.
 - H. Delineated wetland boundaries.
 - I. The 100-year flood elevation and Regulatory Flood Protection Elevation, if available.
 - J. Floodway, flood fringe, and/or general flood plain district boundary, if applicable.
 - K. The shoreland district boundary, if any portion of the project is located in a shoreland district.
 - L. In the shoreland district, the ordinary highwater level and the highest known water level.
 - M. In the shoreland district, the toe and top of any bluffs within the project boundaries.
 - N. Mapped soils according to the Clay County Soil Survey.
 - O. Surface water drainage patterns.
2. Site Plan of Proposed Conditions.
 - A. Location and spacing of solar panels.
 - B. Location of access roads.
 - C. Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load.
 - D. New electrical equipment other than at the existing building or substation that is the connection point for the solar farm.
 - E. Proposed erosion and sediment control measures.
 - F. Proposed stormwater management measures.
 - G. Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any).
3. Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks;
4. The number of panels to be installed.
5. A description of the method of connecting the array to a building or substation.
6. A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.
7. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12

consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet the provisions of the Clay County Solid Waste Ordinance; or successor ordinance. The Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

SECTION 7 DISTRICT REGULATIONS

SUBDIVISION 1 PERMITTED AND CONDITIONAL USES FOR WECS

WECS will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below (P=Permitted, C=Conditionally Permitted, NP=Not Permitted):

District	Micro-WECS	Non- Commercial < 100 kW	Commercial ≥ 100 kW	Meteorological Tower
1. Special Protection	C	C	NP	NP
2. Agricultural	P	P	C	P
3. Rural Residential	C	C	C	P
4. General Business	C	C	C	P
5. Industry	C	C	C	P
6. Floodplain Management	C	C	C	P
7. Shoreland	C	NP	NP	NP
8. RP – Wellhead Protection	P	P	C	P
9. RP – Biologically Significant Areas	C	NP	NP	NP
10 RP – Aggregate Resources	C	NP	NP	NP

SUBDIVISION 2 PERMITTED AND CONDITIONAL USES FOR SOLAR ENERGY SYSTEMS

Solar Farms will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below (P=Permitted, C=Conditionally Permitted, NP=Not Permitted):

District	Large Solar Energy System	Small Solar Energy System
1. Special Protection	C	P
2. Agricultural	C	P
3. Rural Residential	C	P
4. General Business	C	P
5. Industry	C	P

6. Floodplain Management	C	P
7. Shoreland (not including Floodplain Management)	NP	P
8. RP – Wellhead Protection	C	P
9. RP – Biologically Significant Areas	NP	NP
10. RP – Aggregate Resources	NP	NP

SECTION 8 SETBACKS FOR WECS

All towers shall adhere to the setbacks established in the following table.

SUBDIVISION 1 SETBACKS FOR WECS

	Micro- WECS	Non-Commercial < 100 kW	Commercial ≥ 100 kW	Meteorological Tower
1. Project Boundary/ Property lines	An amount equal to the height of the structure.	1.1 times the total height.	3 RD on east-west axis and 5 RD on north-south axis.	1.1 times the total height. Minimum 250 feet. Any guy wires must meet the setbacks of the District.
2. Dwelling(s), other than project owners	Not applicable if setbacks are met.	500 feet and/or sufficient distance to meet state noise standards, whichever is greater.	1000 feet and/or sufficient distance to meet state noise standards, whichever is greater.	1.1 times the total height. Minimum 250 feet.
3. Noise Standard	Minnesota Rule 7030, as amended.	Minnesota Rule 7030, as amended.	Minnesota Rule 7030, as amended.	N/A
4. Road Rights-of-Way	1.1 times the total height.	1.1 times the total height.	1.1 times the total height.	1.1 times the total height. Minimum 250 feet. Any guy wires must meet the setbacks of the District.
5. Other Rights-of-Way (Recreational Trails, power lines, Etc.)	1.1 times the total height.	1.1 times the total height.	1.1 times the total height.	1.1 times the total height. Minimum 250 feet.
6. Public conservation lands managed as grasslands	An amount equal to the height of the structure.	1.1 times the total height.	3 RD on east-west axis and 5 RD on north-south axis.	1.1 times the total height. Minimum 250 feet.
7. Wetlands, USFW Types III, IV and V	An amount equal to the height of the structure.	1.1 times the total height.	3 RD on east-west axis and 5 RD on north-south axis.	1.1 times the total height. Minimum 250 feet.
8. Other Structures	1.1 times the total height.	1.1 times the total height.	1.1 times the total height.	1.1 times the total height. Minimum 250 feet.
9. Other Existing WECS and Internal Turbine spacing	N/A	3 RD on east-west axis, and 5 RD on north-south axis.	3 RD on east-west axis, and 5 RD on north-south axis.	N/A

SUBDIVISION 2 ADDITIONAL SETBACK REQUIREMENTS FOR WECS

1. Based on their total name plate generating capacity, C-BED Projects are considered Micro-WECS, Non-Commercial WECS or Commercial WECS as defined in this Ordinance, and will follow the setbacks established for the category for which they fall under, as listed in Section 8 of this Ordinance.
2. Native Prairie – Turbines and associated facilities shall not be placed in native prairie unless approved in native prairie protection plan. Native prairie protection plan shall be submitted if native prairie is present. The permittee shall, with the advice of the DNR and any others selected by the permittee, prepare a prairie protection and management plan and submit it to the County and DNR Commissioner 60 days prior to the start of construction.
3. Sand and Gravel Operations – No turbines, towers or associated facilities in active sand and gravel operations.
4. Aviation (public and private airports) – No turbines, towers or associated facilities shall be located so as to create an obstruction to navigable airspace of public and private airports in Clay County. Setbacks or other limitations determined in accordance with Mn/DOT Department of Aviation and Federal Aviation Administration (FAA) requirements.
5. Setbacks – All Essential Service Lines and Structures must meet the setback requirements of Section 17, Subdivision 4, Subpart 3 of the Clay County Zoning Ordinance.
6. The setback for new dwellings shall be reciprocal in that no dwelling shall be constructed within the same setback as a new turbine would need to meet to an existing dwelling.
7. No wind turbines allowed within Shoreland Districts, except Micro Towers may be allowed by permission of the Clay County Planning Commission through the conditional use process and only in areas where electricity is not presently available.

SECTION 9 REQUIREMENTS AND STANDARDS FOR WECS

SUBDIVISION 1 SAFETY DESIGN STANDARDS

1. Engineering Certification. For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation, and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
2. Clearance. Rotor blades or airfoils must maintain at least 30 feet of clearance between their lowest point and the ground.
3. Warnings.
 - A. For all Commercial WECS, a sign or signs shall be posted on the tower, transformer, and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.
 - B. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors, or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground. Visible fencing shall be installed around anchor points of guy wires. Aviation warning shall be painted on meteorological towers of less than 200 feet.
 - C. All WECS and Meteorological towers more than 100 feet in overall height shall be required to have safety lighting.

SUBDIVISION 2 HEIGHT STANDARDS

1. Total height. Non-Commercial WECS shall have a total height of less than 200 feet.
2. In those districts where meteorological towers are a permitted use, meteorological towers of less than 200 feet shall be exempt from Conditional Use process established for structures exceeding height requirements

SUBDIVISION 3 TOWER CONFIGURATION STANDARDS

1. All WECS must use self-supporting towers. The base for such towers shall be designed to anchor and support the tower for the site and shall be guarded against unauthorized climbing. The first twelve (12) feet of the tower shall be unclimbable by design or be enclosed by a six (6) foot high unclimbable fence with a secured access.
2. Meteorological towers may be guyed.
3. Color and Finish. All wind turbines and towers that are part of a WECS shall be white, grey or another non-obtrusive color. Blades may be black to facilitate deicing. Finishes shall be matt or non-reflective.
4. Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe

lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided.

SUBDIVISION 4 OTHER APPLICABLE STANDARDS

1. Other Signage. All signage on site shall comply with Chapter 3, Section 8-3-13 of the Clay County Development Ordinance. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle, compartment containing the electrical generator, of the WECS.
2. All feeder lines subject to Clay County Authority equal to or less than 34.5 kV in capacity shall be buried and located on the back side of the right-of-way. Feeder lines installed as part of a WECS shall not be considered an essential service. If not buried, must apply for a variance, and shall follow Chapter 4, Section 8-4-5 of the Development Ordinance for variance procedures.
3. Waste Disposal. Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal regulations.
4. Discontinuation and Decommissioning. A WECS shall be considered a discontinued use after 1 year without energy production, unless a plan is developed and submitted to the Clay County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed four feet below ground level within 90 days of the discontinuation of use.
5. All WECS projects shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. A competent party shall make the cost estimates; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities. The plan shall also address road maintenance during and after completion of the decommissioning.
6. Orderly Development. Upon issuance of a conditional use permit, all WECS shall notify the Minnesota Public Utilities Commission (PUC) Energy Facilities Permitting Program Staff of the project location and details on the survey form specified by the PUC.
7. Noise. All WECS shall comply with Minnesota Rules 7030, as amended, governing noise.
8. Electrical codes and standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
9. Federal Aviation Administration. All WECS shall comply with FAA standards and permits.

SUBDIVISION 5 INTERFERENCE

1. The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within two miles of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions.

SUBDIVISION 6 AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC INFRASTRUCTURE

1. Roads. Applicants shall:
 - A. Identify all public roads to be used for the purpose of transporting WECS, substation parts, materials, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
 - B. Contact the road authority for road closures, road signage removals, road signage re-locating, road signage restoring, moving permits, culverts, access/driveway permits, tile outlet permits, widening road intersections, standard utility permits and any other road activities that may require permits.
 - C. Contact the Clay County Dispatch prior to any road closures for the re-routing of emergency vehicles during the closure.
 - D. Contact the road authority to conduct an inspection of the road conditions of the haul routes prior to and after construction.
 - E. Provide a Performance Bond to be held by the county until the Township and/or County road authority(ies) have provided the County Auditor with a written release that all haul routes within their jurisdiction in Clay County have been returned to pre-construction condition.
2. Drainage System. The Applicant shall be responsible for immediate repair of damage to public and private drainage systems stemming from construction, operation, maintenance, or decommissioning.

SUBDIVISION 7 PRE-CONSTRUCTION MEETING

1. Applicant will conduct a Pre-Construction meeting prior to construction commencement with a written notice sent the following individuals a minimum of one week prior to said meeting:
 - A. Township Chairman
 - B. Clay County Highway Engineer
 - C. Clay County Sheriff
 - D. Clay County Zoning Administrator
 - E. Area Hydrologist, Minnesota Department of Natural Resources
 - F. Minnesota Pollution Control Agency
 - G. United States Farm Service Agency
 - H. Clay County Soil & Water Conservation District
 - I. US Fish & Wildlife Service
 - J. Minnesota State Historical Society
 - K. Two Planning Commission Members: Chair and County Board Representative
 - L. MN/DOT

SECTION 10 SETBACKS AND STANDARDS FOR SOLAR ENERGY SYSTEMS

SUBDIVISION 1. STANDARDS FOR LARGE SOLAR FARMS

1. Solar farms are the primary land use for the parcel on which the array is located and are distinguished from solar arrays that are a secondary or accessory use. Solar farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and generally have a Direct Current (DC) rated capacity greater than 100 kilowatts.
2. Location within Lot. Structures and solar panel installations within large solar farms shall meet a minimum setback from property lines of one-hundred (100) feet, unless otherwise permitted by the County Board in the issuance of a conditional use permit.
3. Height. Structures in Large Solar Farms are subject to the following height requirements:
 - A. Solar systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed.
 - B. Ground- or pole-mounted solar systems shall not exceed 15 feet in height when oriented at maximum tilt.
4. Stormwater Management and Erosion and Sediment Control shall meet the requirements of the MPCA Construction Stormwater Permit requirements.
5. Foundations. The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
6. Other standards and codes. All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; and the National Electric Code, as amended.
7. Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. All electrical equipment and installations shall meet applicable codes.
8. Vegetation requirements and management. The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements may apply as required by the Board.
 - A. Large-scale removal of mature trees on the site is discouraged. Restrictions on tree clearing, or mitigation for cleared trees may be required by the Board.
 - B. The project site design shall include the installation and establishment of ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, section 216B.1642, or successor statutes and guidance as set by the Minnesota Board of Water and Soil Resources.

- 1) Beneficial habitat standards shall be maintained on the site for the duration of operation, until the site is decommissioned.
- 2) The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the County equal to one hundred twenty-five (125) percent of the costs to meet the beneficial habitat standard. The financial guarantee shall remain in effect until vegetation is sufficiently established.

SUBDIVISION 2. STANDARDS FOR SOLAR ENERGY SYSTEMS, ACCESSORY

Solar energy systems are a permitted accessory use in all zoning districts, subject to the following standards:

1. Accessory Building Limit. Solar systems, either roof or ground-mounted, do not count as an accessory building for the; purpose of meeting limits on the number of accessory structures allowed per residential lot or the coverage limits, as set forth in the Clay County Zoning Ordinance.
2. Height. Active solar systems are subject to the following height requirements:
 - A. Building- or roof- mounted solar systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed.
 - B. Ground- or pole- mounted solar systems shall not exceed 15 feet in height when oriented at maximum tilt.
3. Location within Lot. Accessory solar energy systems must meet the accessory structure setback for the zoning district.
 - A. Roof-mounted Solar Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. 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 by at least 2 feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - B. Ground-mounted Solar Systems. Ground-mounted solar energy systems may not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.
 - C. Large Ground-mounted Systems. Ground-mounted solar systems that result in the creation of one or more acres of impervious surface, must comply with the MPCA Construction Stormwater Permit Requirements.
4. Maximum Coverage. Roof or building mounted solar systems, excluding building-integrated systems, shall not cover more than 80% of the south-facing or flat roof upon which the panels are mounted. The total collector surface area of pole or ground mount systems in non-agricultural district shall not exceed one percent of the lot area.
5. Approved Solar Components. Electric solar system components must have a Underwriters Laboratory (UL) listing.
6. Compliance with State Electric Code. All photovoltaic systems shall comply with the Minnesota

State Electric Code.

7. Utility Notification. No grid-interconnected photovoltaic system shall be installed until evidence has been given to the Department that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

SECTION 11 ENFORCEMENT, VIOLATIONS, REMEDIES, PENALTIES, AND FEES

SUBDIVISION 1. ENFORCEMENT, VIOLATIONS, REMEDIES, AND PENALTIES

Enforcement of this Ordinance shall be done in accordance with process and procedures established in Section 26 of the Clay County Zoning Ordinance.

SUBDIVISION 2. FEES

1. The fees for a zoning certificate, variance, amendment, or conditional use permit, shall be established by the Board. The Board may review and revise the fee schedule periodically. The Zoning Administrator shall issue the Zoning Certificate only after the fee has been paid and a determination has been made that the building plans, together with the application comply with the terms of this Ordinance. Any person filing a petition for an amendment to this Ordinance or requesting a variance shall pay the prescribed fees according to the schedule established by the Board before any work proposed may commence. The fee is payable at the time of filing a petition and is not refundable.

2. Municipal corporations and governmental agencies shall be exempt from the fee requirements as prescribed by this Ordinance.

SECTION 12 VALIDITY

SUBDIVISION 1. VALIDITY

Should any section or provisions of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 13 REPEAL AND DATE OF EFFECT

SUBDIVISION 1. REPEAL

The Clay County Wind Energy Ordinance, adopted July 21, 2009, and its amendments are hereby repealed.

SUBDIVISION 2. DATE OF EFFECT

This Clay County Renewable Energy Ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed and Approved the 13th day of November, 2018

Jenny J. Morgan
_____, Chairman
Clay County Board of Commissioners

ATTEST:

Stephan Dawn

Clay County Administrator

Recommended by: The Clay County Planning Commission

Date: Sept. 15, 2018

Ann Beier
_____, Chairman
Clay County Planning Commission

ATTEST:

Cheri Lynn Deward

Clay County Zoning Administrator