

DOUGLAS COUNTY ZONING ORDINANCE

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ZONING ORDINANCE

DOUGLAS COUNTY, MINNESOTA

AN ORDINANCE REGULATING USE OF LAND IN DOUGLAS COUNTY LYING OUTSIDE THE INCORPORATED LIMITS OF ANY CITY.

The Board of County Commissioners of Douglas County does ordain:

SECTION I. GENERAL PROVISIONS

A. Title

This Ordinance from the date of its passage shall be entitled:

ZONING ORDINANCE
DOUGLAS COUNTY, MINNESOTA

B. Purpose

The purpose of this Ordinance is to promote the public health, safety, comfort and general welfare of the people of Douglas County. To this end, this Ordinance regulates and restricts the location of buildings proposed for specific uses, the height and bulk of buildings hereafter erected, provides for minimum sanitation standards, and regulates and determines the areas of yards, to a considerable degree depending on the provision of central water supply and/or sewage treatment facilities.

C. Legal Authority

This Ordinance is enacted pursuant to "An Act Authorizing County Planning and Zoning Activities, establishing a Board of Adjustment and Authorizing the Enactment of Official Controls," Chapter 559 Laws 1959, as amended, and State-Wide Standards for Management of Shoreland Areas, Chapter 105, Minnesota Regulations, Parts 6120.2500-6120.3900.

D. Compliance

No building located in Douglas County and lying outside the incorporated limits of a city and the limits of towns having the powers of a city pursuant to law shall be erected or altered which does not comply with the regulations of this Ordinance for the zoning use district wherein located, nor shall any building or premises be used for any purpose other than a use permitted by this Ordinance in the district wherein located. Nor shall any shoreland alteration be performed within shoreland districts without following the requirements of this Ordinance.

E. Public Utility Buildings and Essential Services

Essential services are permitted uses in all zoning districts and are not subject to height, yard or setback requirements or permits, except as provided below:

1. All underground telephone lines, pipelines for local distribution, underground transmission lines, overhead utility lines, and electric transmission lines less than 33 kV, gas regulator services, electric substations and similar essential services structures, as well as public utility buildings not customarily considered industrial in use, are permitted uses in all zoning districts subject to the following:
 - a. Any building is subject to the provisions of this Ordinance concerning buildings.
 - b. No such building shall be located within fifty (50) feet of any lot line of an abutting lot in any Residential District.
 - c. Before construction of any essential services, the owner shall file with the Director of Land and Resource Management such maps and drawings of the proposed service relating to site location as shall be requested. The Director of Land and Resource Management shall consult with the Planning Advisory Commission and make suggestions to the owner as to modifications considered desirable under this Ordinance. Failure by the Director of Land and Resource Management to respond within ninety (90) days of receipt of such maps or plans shall constitute approval.
2. Conditional Use Permit Required. All transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 33 kV shall be subject to the following procedural requirements, in addition cellular towers shall be a conditional use in residential and agricultural districts and shall be subject to the following procedural requirements:
 - a. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Director of Land and Resource Management, all maps and other pertinent information as deemed necessary for the Planning Advisory Commission to review the proposed project.
 - b. The Director of Land and Resource Management shall transmit the map and accompanying information to the Planning Advisory Commission for its review and recommendations regarding the project's relationship to the Comprehensive Plan and parts thereof.
 - c. The Planning Advisory Commission shall hold the necessary public hearings as prescribed by this section for conditional uses.

- d. The Planning Advisory Commission shall report in writing to the County Board its findings as to compliance of the proposed project with the Comprehensive Plan.
- e. In considering the applications for the placement of essential services, as regulated by this section, the County shall consider the advice and recommendations of the Planning Advisory Commission and the effect of the proposed project upon the health, safety and general welfare of the County, existing and anticipated; and the effect of the proposed project upon the Comprehensive Plan.

SECTION II. ZONING USE DISTRICTS

A. Description

For the purpose of this Ordinance, Douglas County is hereby divided into zoning use districts which shall be designated as follows:

1. Agricultural District (A).
2. Rural Residential (RR).
3. Residential District (R).
4. Residential Shoreland District (RS).
5. Commercial District (C).
6. Industrial District (I).

B. Application

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as herein. Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by other provisions of this Ordinance, rules or regulations of the County, the Ordinance, rule, or regulation which imposes the more restrictive condition, standard, or requirement shall prevail. The Director of Land and Resource Management shall determine which is more "restrictive" and appeals from such determination may be made in the manner provided herein.

1. No land shall be used or occupied, and no building or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless it is in conformity with all of the regulations herein specified for the district in which it is located.
2. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least minimum requirements established by this Ordinance.

C. Boundaries

1. The County is hereby divided into zoning use districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.
 - a. The official zoning map shall be identified by the signature of the Chairman of the County Board of Commissioners, attested by the County Auditor, and bearing the seal of the County under the following words: "This is to certify that this is the official zoning map of Douglas County, Minnesota."
 - b. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the County Board.
 - c. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under the provisions of this Ordinance.
 - d. Regardless of the existence of purported copies of the official zoning map which may, from time to time, be made or published, the official zoning map, which shall be located in the office of the Director of Land and Resource Management, shall be the final authority as the current zoning status.

D. Interpretation

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits and County borders shall be construed as following such lines.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following the center lines or shoreline or rivers or lakes shall be construed to follow such centerlines or shorelines.

6. Boundaries indicated as approximately following sections, half sections, quarter sections, sixteenth sections, and government lots, shall be construed to follow such lines.
7. Boundaries indicated as parallel to or extensions of features indicated in Sub-section 1 through 6 above, shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
8. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by Subsection 1 through 6 above, the Planning Advisory Commission shall interpret the district boundaries.

SECTION III. ZONING DISTRICT REGULATIONS

A. Agricultural District (A)

1. Purpose.

To provide, maintain and enhance agricultural land in the County which has been historically farmed, and to protect the agricultural and natural resource land from scattered residential development.

2. Permitted Uses.

- a. Agricultural buildings.
- b. Single family dwelling.
- c. Two-family dwelling.
- d. Boarding house – When occupants are current employees of an active farming operation or agricultural industry (e.g., animal feedlot), and the structure is located on property owned by the farm or directly adjacent to the farm.
- e. Temporary second dwelling during construction of a new dwelling on a lot/parcel five (5) acres or larger in size.
- f. Temporary second dwelling for family supportive care on a lot/parcel five (5) acres or larger in size.
- g. Farm production, which shall include the raising of crops and livestock.
- h. Temporary or seasonal roadside stands with adequate off-street parking—not to exceed one stand per farm.
- i. Forest and game management areas.
- j. Aquaculture.
- k. Agricultural feedlots containing less than 200 animal units.
- l. Temporary mining area.
- m. Nurseries and tree farms and parks and playgrounds.
- n. Up to one (1) free-standing illuminated, unilluminated or electronic changeable copy sign per parcel, up to thirty-two (32) square feet in size and up to fifteen (15) feet in height,

subject to the additional standards for illuminated and electronic changeable copy signs elsewhere in this Ordinance.

- o. Solar energy systems-rooftop, ground mount, and community.
 - p. Small wind energy conversion system.
 - q. Private/vacation home rental (meeting occupancy and capacity standards).
3. Permitted Accessory Uses.
- a. Accessory buildings.
4. Conditional Uses.
- a. Churches, chapels, temples and synagogues.
 - b. Parks and playgrounds.
 - c. The offices of members of recognized professions, such as doctors of medicine, optometry, dentistry and chiropractors; engineers, lawyers and architects, provided such professions are carried on in their respective residences.
 - d. Home occupations.
 - e. Educational institutions and incidental uses when situated on the same site or unit of property.
 - f. Cemeteries.
 - g. Federal, state or local governmental buildings and facilities.
 - h. Nursing homes, hospitals or sanitariums.
 - i. Planned unit developments.
 - j. Restaurants, on/off sale liquor sales.
 - k. Solid waste processing facilities and sanitary landfills provided they meet all applicable county and state laws.
 - l. Mining of gravel.
 - m. Bed and breakfast facilities.
 - n. Land spreading of petroleum contaminated soil.

- o. Mini-storage.
 - p. Temporary hot mix plant.
 - q. Agricultural feedlots containing more than 200 animal units.
 - r. Those commercial uses which serve local permanent residents and resort industry, such as grocery stores, marine supplies, equipment and service; restaurants, recreational equipment sales and privately owned and licensed recreational activity.
 - s. Contractor offices, shops, yards with outdoor storage.
 - t. Communication services and utility towers including cellular phone towers.
 - u. Concrete/bituminous storage/recycling facilities.
 - v. Boarding house – When occupants are other than in 2.d. above.
 - w. Temporary second dwelling during construction of a new dwelling on a lot/parcel less than five (5) acres in size.
 - x. Temporary second dwelling for family supportive care on a lot/parcel less than five (5) acres in size.
 - y. Illuminated or unilluminated signs between thirty-two (32) and forty-eight (48) square feet in size and up to fifteen (15) feet in height, when located within fifty (50) feet of the edge of a roadway with a posted speed of fifty-five (55) miles per hour or higher.
 - z. More than one (1) free-standing sign per parcel.
 - aa. Solar energy system-solar farm.
 - bb. Large wind energy conversion system.
 - cc. Aggregated wind farm.
 - dd. Private/vacation home rental (exceeding overnight guest occupancy)
 - ee. Private/vacation home rental (exceeding property capacity)
 - ff. Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Advisory Commission.
5. Building Setback Requirements and Regulations.
- a. Height regulations.

(1.) Agricultural buildings are exempt from height limitations unless they are in a special airport zone.

(2.) Non-agricultural buildings shall not exceed a height of thirty-five (35) feet.

b. Road setbacks (the most restrictive shall apply).

	Road Setback (feet)	
	<u>Right-of-Way Or Easement</u>	<u>Center Line</u>
(1.) Federal Road	50	-
(2.) State Road	50	-
(3.) County Road:		
(a.) Urban	-	75
(b.) Rural	-	100
(4.) Township Road		65*
(5.) Cartway, Alley, Avenue, Private accesses serving more than two parcels and other roads	32	48*

*Center Line setback shall not apply in cases where the adjacent road is in a platted right-of-way of at least sixty-six (66) feet in width and the right-of-way has not been identified in official government documents for future expansion beyond a sixty-six (66) foot right-of-way. If any portion of an existing road is located outside of a right-of-way, regardless of the width of the right-of-way, the right-of-way setback shall apply as measured from the edge of the traveled road surface or the actual right-of-way, whichever is more restrictive.

(6.) One hundred (100) feet for all livestock buildings from the road right-of-way.

c. Side yard setbacks.

(1.) Ten (10) feet, five (5) feet to eaves.

(2.) One hundred (100) feet for all livestock buildings.

d. Rear yard setbacks.

(1.) Twenty-five (25) feet for dwellings.

(2.) Ten (10) feet for agricultural buildings and accessory buildings.

(3.) One hundred (100) feet for livestock buildings.

e. Other regulations and setbacks.

(1.)Wetlands.

Wetlands are regulated by local, state, and federal governments. In this Ordinance, wetlands are subject to building and sewer setback regulations. For the purpose of this Ordinance, wetlands are divided in to two categories:

(a.)Protected wetlands - Consist of wetlands identified on the Protected Waters Inventory (PWI) map that have not been assigned a shoreland management classification.

(b.)All other wetlands - Consist of all wetlands not identified on the Protected Waters Inventory Map. Applicable setbacks are as follows:

- i. building setback from protected wetlands is fifty (50) feet;
- ii. building setback from all other wetlands is twenty-five (25) feet.

(2.)Agricultural Fences.

(a.)Agricultural fences are exempt from setbacks and permits.

6. Lot Area Requirements and Regulations.

a. Subdivision by plat.

(1.)Minimum lot area—two and one-half (2½) acres.

(2.)An increase of the minimum lot size may be required by the County if determined to be necessary.

b. Conveyance by other than a plat.

(1.)Undeveloped Land (no existing building site/bare land/unimproved land): Minimum lot area—two and one-half (2½) acres.

(2.)Developed Land (existing building site/existing dwelling): Minimum lot area—two and one-half (2½) acres).

(3.)An increase of the minimum lot size may be required by the County if determined to be necessary.

c. Minimum lot width.

(1.)Two hundred (200) feet.

d. Minimum lot depth.

(1.) Three hundred (300) feet.

e. General regulations.

(1.) Additional requirements are set forth in Section V., Performance Standards.

f. Lot coverage.

(1.) The total area of all buildings and other impervious surfaces shall not cover more than twenty-five (25) percent of the lot area.

g. Minimum buildable area.

(1.) All newly created lots must have a minimum buildable area of twenty-eight thousand, nine hundred (28,900) square feet.

B. Rural Residential District (RR)

1. Purpose.

To allow select residential development in areas where vacant or farmed land has become subject to increased amounts of single family residential development. This district is intended to be reserved for future higher density rural residential development when support services and infrastructure can be provided. Development in this district shall maintain a low density rural environment until such time as the need for additional rural residential development and rezoning to Residential (R).

2. Permitted Uses.

a. Single family dwelling.

b. Limited livestock raising of 0.5 animal units per acre not to exceed 49 animal units if all setbacks can be complied with.

c. Public parks, public recreation areas, and historic monuments.

d. Two-family dwellings.

e. Temporary second dwelling during construction of a new dwelling on a lot/parcel five (5) acres or larger in size.

f. Temporary second dwelling for family supportive care on a lot/parcel five (5) acres or larger in size.

- g. Up to one (1) free-standing illuminated, unilluminated or electronic changeable copy sign per parcel, up to thirty-two (32) square feet in size and up to fifteen (15) feet in height subject to the additional standards for illuminated and electronic changeable copy signs elsewhere in this ordinance.
- h. Solar energy systems-rooftop, ground mount, and community.
- i. Small wind energy conversion system.
- j. Private/vacation home rental (meeting occupancy and capacity standards).

3. Permitted Accessory Uses.

- a. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted or conditional uses.

4. Conditional Uses.

- a. Cemetery.
- b. Church, church related buildings and parsonage.
- c. Essential services, governmental use buildings and storage.
- d. Wireless telecommunication towers.
- e. Home occupations.
- f. Bed and breakfast facilities.
- g. Land spreading of petroleum contaminated soil.
- h. Mini-storage.
- i. Temporary hot mix plant.
- j. Mining of gravel.
- k. Concrete/bituminous storage/recycling facilities.
- l. Limited livestock raising of more than 0.5 animal units per acre.
- m. Planned unit developments.
- n. Boarding house.

- o. Temporary second dwelling during construction of a new dwelling on a lot/parcel less than five (5) acres in size.
- p. Temporary second dwelling for family supportive care on a lot/parcel less than five (5) acres in size.
- q. Illuminated or unilluminated signs between thirty-two (32) and forty-eight (48) square feet in size and up to fifteen (15) feet in height, when located within fifty (50) feet of the edge of a roadway with a posted speed of fifty-five (55) miles per hour or higher.
- r. More than one (1) free-standing sign per parcel.
- s. Solar energy system-solar farm.
- t. Large wind energy conversion system.
- u. Aggregated wind farm.
- v. Private/vacation home rental (exceeding overnight guest occupancy).
- w. Private/vacation home rental (exceeding property capacity).
- x. Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Advisory Commission.

5. Building Setback Requirements and Regulations.

- a. Height regulations.

(1.) No building shall exceed a height of thirty-five (35) feet, with the exception of agricultural buildings.

- b. Road setbacks (the most restrictive shall apply).

	Road Setback (feet)	
	<u>Right-of-Way Or Easement</u>	<u>Center Line</u>
(1.) Federal Road	50	-
(2.) State Road	50	-
(3.) County Road:		
(a.) Urban	-	75
(b.) Rural	-	100
(4.) Township Road	32	65*
(5.) Cartway, Alley, Avenue, Private accesses serving more than two parcels and other roads	32	48*

*Centerline setback shall not apply in cases where the adjacent road is in platted right-of-way of at least sixty-six (66) feet in width and the right-of-way has not been identified in official government documents for future expansion beyond a sixty-six (66) foot right-of-way. If any portion of an existing road is located outside of a right-of-way, regardless of the width of the right-of-way, the right-of-way setback shall apply as measured from the edge of the travelled road surface of the actual right-of-way, whichever is more restrictive.

c. Side yard setbacks.

- (1.) Ten (10) feet, five (5) feet to eaves.
- (2.) One hundred (100) feet for all livestock buildings.
- (3.) If a two (2) family attached home is constructed on two (2) contiguous conforming lots, a zero (0) lot line setback is permitted between the two (2) lots for the dwelling structure and driveway.

d. Rear yard setbacks.

- (1.) Twenty-five (25) feet for dwellings.
- (2.) Ten (10) feet for accessory buildings or agricultural buildings.
- (3.) One hundred (100) feet for all livestock buildings.

e. Other regulations and setbacks.

(1.)Wetlands.

Wetlands are regulated by local, state and federal governments. In this Ordinance wetlands are subject to building and sewer setback regulations. For the purposes of this Ordinance wetlands are divided into two (2) categories:

(a.)Protected Wetlands - consist of wetlands identified on the Protected Waters Inventory map that have not been assigned a shoreland management classification.

(b.)All Other Wetlands - consist of all wetlands not identified on the Protected Waters Inventory map. Applicable setbacks are as follows:

- i. building setback from protected wetlands is fifty (50) feet;
- ii. building setback from all other wetlands is twenty-five (25) feet.

(2.)Fences.

Fences may be placed on the property line if they are maintenance free or can be maintained from within the perimeter and two (2) feet from the property line if they are maintained outside of the perimeter or are not maintenance free. All such fences are to have a height of no greater than six (6) feet from the original ground to the highest point unless utilized for livestock containment.

6. Lot Area Requirements and Regulations.

a. Subdivision by plat.

(1.)Minimum lot area: one (1) acre.

(2.)An increase of the minimum lot size may be required by the County if determined to be necessary.

b. Conveyance by other than plat.

(1.)Undeveloped land (no existing building site/bare land/unimproved land): one (1) acre.

(2.)Developed land (existing building site/existing dwelling): one (1) acre.

c. Minimum lot width.

(1.)Two hundred (200) feet.

d. Minimum lot depth.

(1.)One hundred fifty (150) feet.

e. Lot coverage.

(1.)The total area of all buildings and other impervious surfaces shall not cover more than twenty-five (25) percent of the lot area.

f. General regulations.

(1.)Additional requirements set forth in Section V., Performance Standards.

g. Minimum buildable area.

(1.)All newly created lots must have a minimum buildable area of twenty-eight thousand, nine hundred (28,900) square feet.

C. Residential District (R)

1. Purpose.

To allow select residential development where existing development has taken place. Also, to allow residential development in staged growth areas adjacent to the cities within Douglas County. The following criteria shall be used in determining whether development is reasonable and orderly in the staged growth areas:

a. Existing pattern of growth.

b. Availability of sewer and water services.

c. Lot sizes of other developments in the area.

2. Permitted Uses.

a. Single family dwelling.

b. Two-family dwellings.

c. Temporary second dwelling for family supportive care on a lot/parcel five (5) acres or larger in size.

d. Up to one (1) free-standing sign per parcel, up to twelve (12) square feet in size and eight (8) feet in height.

e. Solar energy systems—rooftop and ground mount.

f. Private/vacation home rental (meeting occupancy and capacity standards).

3. Permitted Accessory Uses.
 - a. Accessory buildings.
4. Conditional Uses.
 - a. Churches, chapels, temples and synagogues.
 - b. Parks and playgrounds.
 - c. The offices of members of recognized professions, such as doctors of medicine, optometry, dentistry and chiropractors; engineers, lawyers and architects, provided such professions are carried on in their respective residences.
 - d. Home occupations.
 - e. Those commercial uses which serve local permanent residents and the resort industry, such as grocery stores, marine supplies, equipment and service; recreational equipment sales and privately owned and licensed recreational activity.
 - f. Educational institutions and incidental uses when situated on the same site or unit of property.
 - g. Planned Unit Developments.
 - h. Boarding house.
 - i. Multiple family dwellings.
 - j. Temporary second dwelling during construction of a new dwelling.
 - k. Temporary second dwelling for family supportive care on a lot/parcel less than five (5) acres in size.
 - l. Bed and breakfast facilities.
 - m. Communication services and utility towers including cellular phone towers.
 - n. Farm animals/livestock.
 - o. Signs between twelve (12) and thirty-two (32) square feet in size and up to eight (8) feet in height, when located within fifty (50) feet of the edge of a roadway with a posted speed of fifty-five (55) miles per hour or higher.
 - p. More than one (1) free-standing sign per parcel.

- q. Illuminated signs, subject to the standards required elsewhere in this ordinance.
- r. Electronic changeable copy signs, when on a property with an approved business or home occupation.
- s. Private/vacation home rental (exceeding overnight guest occupancy).
- t. Private/vacation home rental (exceeding property capacity).
- u. Solar energy systems—community and solar farm.
- v. Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Advisory Commission.

5. Building Setback Requirements and Regulations.

a. Height regulations.

(1.) No building shall exceed a height of thirty-five (35) feet.

b. Road setbacks (the most restrictive shall apply).

	Road Setback (feet)	
	Right-of-Way <u>Or Easement</u>	<u>Center Line</u>
(1.) Federal Road	50	-
(2.) State Road	50	-
(3.) County Road:		
(a.) Urban	-	75
(b.) Rural	-	100
(4.) Township Road	32	65*
(5.) Cartway, Alley, Avenue, Private accesses serving more than two parcels and other roads	32	48*

*Centerline setback shall not apply in cases where the adjacent road is in platted right-of-way of at least sixty-six (66) feet in width and the right-of-way has not been identified in official government documents for future expansion beyond a sixty-six (66) foot right-of-way. If any portion of an existing road is located outside of a right-of-way, regardless of the width of the right-of-way, the right-of-way setback shall apply as measured from the edge of the travelled road surface of the actual right-of-way, whichever is more restrictive.

c. Side yard setbacks.

(1.) Lot existence prior to August 9, 1966 - six (6) feet, three (3) feet to eaves.

(2.) Lot existence after August 9, 1966 - ten (10) feet, five (5) feet to eaves.

(3.) If an attached two (2) family home is constructed on two (2) contiguous conforming lots a zero (0) lot line setback is permitted between the two lots for the dwelling structure and driveway.

d. Rear yard setbacks.

(1.) Twenty-five (25) feet for dwellings.

(2.) Ten (10) feet for accessory buildings.

e. Fences.

Fences may be placed on the property line if they are maintenance free or can be maintained from within the perimeter and two (2) feet from the property line if they need to be maintained outside of the perimeter or are not maintenance free. All such fences are to have a height of no greater than six (6) feet from the original ground to the highest point.

f. Other regulations and setbacks.

(1.) Wetlands.

Wetlands are regulated by local, state and federal governments. In this Ordinance wetlands are subject to building and sewer setback regulations. For the purposes of this Ordinance wetlands are divided into two categories:

(a.) Protected wetlands - consist of wetlands identified on the Protected Waters Inventory map that have not been assigned a shoreland management classification.

(b.) All other wetlands - consist of all wetlands not identified on the Protected Waters Inventory map. Applicable setbacks are as follows:

i. building setback from protected wetlands is fifty (50) feet;

ii. building setback from all other wetlands is twenty-five (25) feet.

6. Lot Area Requirements and Regulations.

a. Single-family dwellings.

(1.) Served by central sewer system – fifteen thousand (15,000) square feet.

(2.) Served by private sewer system – thirty thousand (30,000) square feet.

(3.) An increase of the minimum buildable lot size may be required by the County if determined to be necessary.

- b. Two-family dwellings. (If entire property is to be one parcel or lot).
 - (1.) Served by central sewer system – thirty thousand (30,000) square feet.
 - (2.) Served by private sewer system – forty thousand (40,000) square feet.
 - (3.) An increase of the minimum buildable lot size may be required by the County if determined to be necessary.
- c. Minimum lot width.
 - (1.) Single-family dwellings – one hundred (100) feet.
 - (2.) Two-family dwellings – one hundred twenty-five (125) feet. Two-family dwelling width only applies if one parcel or lot.
- d. Minimum lot depth.
 - (1.) Single-family dwellings – one hundred (100) feet.
 - (2.) Two-family dwellings – one hundred twenty-five (125) feet. (Two-family dwelling width only applies if one parcel or lot).
- e. Lot coverage.
 - (1.) The total area of all buildings and other impervious surfaces shall not cover more than twenty-five (25) percent of the lot area.
- f. General regulations.
 - (1.) Additional requirements are set forth in Section V., Performance Standards, including, but not limited to, the Storm Water Management section.
- g. Minimum buildable area.
 - (1.) All newly created lots must have a minimum buildable area of seven thousand, four hundred (7,400) square feet.

D. Residential Shoreland District (RS)

1. Purpose.

To protect and regulate the use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the natural environmental values of shorelands, and provide for the wise use of waters and related land resources.

2. Boundaries.

The boundaries of the Residential Shoreland District are lands located within the following distances from public waters: one thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage greater than twenty-five (25) acres, and three hundred (300) feet from a river or stream or the landward extent of a floodplain designated by Ordinance on a river or stream, whichever is greater.

3. Lake and River Classification.

Shorelands in Douglas County have been divided into three (3) lake and three (3) river categories for purposes of shoreland management. The three (3) lake categories are: Natural Environment Lakes, Recreational Development Lakes, and General Development Lakes. The three (3) river categories are: Transition Rivers, Agricultural Rivers, and Tributary Rivers.

Natural Environment Lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

Recreational Development Lakes are generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and ground water situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

General Development Lakes are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.

Transition River Segments are generally either located within the Minnesota and Mississippi River valleys, or within the middle reaches of several rivers in all regions except the north central and northeast. Common land uses include forested within riparian strips and mixtures of cultivated, pasture, and forested beyond. Some seasonal and year-round residential development exists, particularly within commuting distance of major cities. The types and intensities of recreational uses within this class vary widely.

Agricultural River Segments are located in well-roaded, intensively cultivated areas of the western and southern regions of the state. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities, and small forested areas. Residential development is not common, but some year-round residential use is occurring within commuting

distances of major cities. Some intensive recreational use occurs on these river segments in particular areas, but overall recreational use of these waters and adjacent lands is low. Although potential exists for additional development and recreation, water quality constraints and competing land uses, particularly agriculture, will inhibit expansions.

Tributary River Segments consist of water courses mapped in the Protected Waters Inventory map that have not been assigned one of the river classes above. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

The following is a list of lakes and rivers, located wholly or partly in Douglas County, as classified by the State of Minnesota. Those lakes categorized as Natural Environment are further broken down in accordance with Douglas County’s classifications:

The following are the DNR lake and river classifications:

- a. Natural Environment Shoreland Lakes (NES).

Class A
Category 1

<u>ID No.</u>	<u>Lake Name</u>	<u>ID No.</u>	<u>Lake Name</u>
21-035	Tory’s	21-184	Brandon
21-046	Lovers	21-189	Gilbert
21-061	Laura	21-197	Round
21-093	Alvin	21-198	Crooks (Stoneall)
21-095	North Union	21-215	Burrows
21-108	Mina	21-216	Whiskey
21-109	Magnuson Pond	21-222	Aldrich
21-120	Charlie	21-225	Mud (Skrov)
21-125	Kiehne	21-226	Moon
21-132	Ellis	21-267	Red Rock
21-136	Indian	21-305	Venus
21-154	South Kron	21-367	Johanna
21-157	Echo	21-551	Mud

Class A
Category 2

<u>ID. No.</u>	<u>Lake Name</u>	<u>ID. No.</u>	<u>Lake Name</u>
21-003	Clifford (Swims)	21-262	Hendrickson
21-006	Gulden	21-265	Stockhousen
21-007	Herberger	21-273	-----
21-012	Schultz	21-274	Eng
21-018	Bird	21-275	Bengston
21-025	Person, Duane	21-281	Rodland
21-032	Goose	21-283	Hegg
21-034	Spruce Center	21-288	-----
21-062	Roer's Marsh	21-289	Wolley
21-067	Friet	21-293	Amos
21-084	Skoglund	21-294	Thorson
21-086	East Mud	21-304	Halleque
21-115	Buckskin	21-308	Johnson Slough
21-142	Elk	21-309	Johnson
21-158	Grubb	21-310	Torgerson
21-161	Little Freeborn	21-312	-----
21-163	Cricken	21-313	Peterson Slough
21-178	East Olaf	21-315	Quam
21-182	Pete Nelson	21-320	-----
21-185	Minister	21-323	Jennie
21-187	William	21-327	Evansville
21-190	Elizabeth	21-329	Mahla
21-192	Brown	21-331	-----
21-193	Esala	21-333	-----
21-206	Baumbach	21-334	Bah
21-208	Lower Hunt	21-336	Fanny
21-214	Redick	21-338	Davidson
21-217	Mahan	21-347	Hubrid
21-228	Korkowski	21-348	Solberg
21-231	Nelson	21-354	-----
21-233	Upper Hunt	21-362	-----
21-237	-----	21-364	Gina
21-241	Boesen	21-374	Alberts
21-246	Stockhaven	26-001	Bah, Upper
21-259	Long	61-030	Burroughs
21-260	Levang	61-126	Mud
21-261	Thorstad		

Class A
Category 3

<u>ID. No.</u>	<u>Lake Name</u>	<u>ID. No.</u>	<u>Lake Name</u>
21-001	-----	21-254	-----
21-014	Schulz	21-266	Unnamed
21-020	-----	21-271	Samuelson
21-022	Stevens	21-272	-----
21-026	Adamson	21-276	Solem
21-039	-----	21-278	-----
21-048	-----	21-279	Unnamed Marsh
21-059	Pletcher Pond	21-280	-----
21-088	Prchal's Marsh	21-282	-----
21-096	Anderson	21-284	-----
21-098	Bjork Marsh	21-285	-----
21-112	Johnson	21-286	-----
21-119	Mud	21-290	Anderson
21-121	Kloehn's Marsh	21-295	Lerum Marsh
21-122	Ferguson Marsh	21-299	Urness
21-133	-----	21-302	Barsness
21-134	-----	21-303	Larson
21-139	-----	21-306	Holl
21-143	Indian	21-307	Unnamed
21-146	-----	21-311	Winter Marsh
21-152	Hoium	21-318	-----
21-155	North Kron	21-319	-----
21-167	-----	21-321	-----
21-169	Mud	21-324	Hansen Marsh
21-171	Mattson	21-325	-----
21-172	Gilbertson	21-330	East Mahla
21-174	-----	21-341	Erwin
21-175	-----	21-350	Olson
21-176	Gilbertson	21-351	Ron
21-177	West Olaf	21-358	-----
21-181	Wolf	21-359	-----
21-183	Thompson	21-361	-----
21-186	-----	21-363	-----
21-188	Foslien	21-365	-----
21-191	Botner	21-366	Jesnowski
21-194	Fish	21-368	-----
21-196	Eiesland Slough	21-370	-----
21-200	-----	21-371	Horseshoe
21-202	-----	21-373	Anderson-Pond
21-204	Grill	21-376	Grants-Slough
21-238	Hoakenson		

...table continued

<u>ID. No.</u>	<u>Lake Name</u>	<u>ID. No.</u>	<u>Lake Name</u>
21-379	Connie	21-556	-----
21-462	-----	21-567	-----
21-494	-----	56-03	Noetzelman-Slough
21-536	-----		

Class B

<u>ID. No.</u>	<u>Lake Name</u>	<u>ID No.</u>	<u>Lake Name</u>
21-010	-----	21-287	-----
21-011	Kuntz	21-296	-----
21-013	-----	21-301	Urness
21-021	-----	21-337	-----
21-023	-----	21-340	-----
21-028	-----	21-372	-----
21-029	-----	21-394	-----
21-033	-----	21-396	-----
21-040	Doebben's Marsh	21-401	-----
21-042	Childs Marsh	21-405	-----
21-043	-----	21-406	-----
21-058	Hidden	21-408	-----
21-060	Mud	21-409	-----
21-075	Hartfiel's Marsh	21-419	-----
21-078	Welch	21-431	-----
21-087	West Mud	21-433	-----
21-089	Long	21-435	-----
21-097	Peterson	21-443	-----
21-105	Lottie (Taylor)	21-454	-----
21-111	Cook	21-456	-----
21-117	Magnuson	21-460	-----
21-127	-----	21-471	-----
21-147	-----	21-472	-----
21-149	-----	21-475	-----
21-153	-----	21-478	-----
21-159	Mud	21-489	-----
21-179	-----	21-502	-----
21-230	Long	21-511	-----
21-232	-----	21-526	-----
21-236	Mud	21-528	-----
21-244	Lorsung	21-534	-----
21-248	-----	21-585	Hillstrom Marsh
21-253	-----	56-016	-----
21-256	Wilkin	56-144	George
21-258	Bjork Marsh	61-031	East Ellen
		77-214	-----

Landowners who disagree with the classification of their property in the NES categories only, may petition the Director of the Land and Resource Management office in writing to request that their land classification be re-evaluated. It is not possible to petition for the reclassification of a lake categorized as NES to a GDS or RDS classification in this manner. The Director shall bring such a request to the County Board.

b. Recreational Development Lakes (RDS)

<u>ID. No.</u>	<u>Lake Name</u>	<u>ID. No.</u>	<u>Lake Name</u>
21-16	Smith	21-162	Freeborn
21-41	Union	21-180	Mill
21-49	Burgen	21-199	Crooked
21-55	Jessie	21-212	Little Chippewa
21-73	Vermont	21-213	Devils
21-85	Andrew	21-242	Aaron
21-90	Turtle	21-245	Moses
21-101	Stoney (Stony)	21-257	Oscar
21-130	Spring	21-264	Stowe
21-140	Pocket	21-343	Long
21-144	Lobster	21-353	Anka
21-145	Chippewa	21-355	Ina
21-150	Grants	21-375	Christina
21-151	Blackwell	26-2	Pelican
21-156	Little Lake Oscar (South Oscar)	On boundary w/Grant Co.	
21-160	Rachel	61-78	Reno
21-162	Freeborn	On boundary w/Pope Co.	

c. General Development Lakes (GDS)

<u>ID. No.</u>	<u>Lake Name</u>	<u>ID. No.</u>	<u>Lake Name</u>
21-51	Henry	21-92	Mary
21-52	Geneva	21-94	Louise
21-54	Victoria	21-102	Brophy
21-56	Le Homme Dieu	21-103	Cowdry
21-57	Carlos	21-106	Latoka
21-76	Irene	21-123	Ida
21-79	Maple	21-291	Red Rock
21-80	Darling	77-215	Osakis
21-81	Winona	On boundary w/Todd Co.	
21-83	Miltona		

d. Transition River (TRA).

Long Prairie River (Carlos Township).

e. Agricultural Rivers (AGR).

Chippewa River (Evansville and Solem Township).

Long Prairie River (Belle River Township).

f. Tributary River (TRI).

Chippewa River (Leaf Valley Township).

Spruce Creek.

All remaining non-classified water courses on the Protected Waters Inventory map.

4. Wetlands.

Wetlands are regulated by local, state and federal governments. In this Ordinance wetlands are subject to building and sewage treatment setback regulations. For the purposes of this Ordinance wetlands are divided into two categories:

- a. Protected wetlands - consist of wetlands identified on the Protected Waters Inventory map that have not been assigned a shoreland management classification.
- b. All Other wetlands - consist of all wetlands not identified on the Protected Waters Inventory map. Applicable setbacks are as follows:

(1.)building setback from protected wetlands is fifty (50) feet;

(2.)building setback from all other wetlands is twenty-five (25) feet.

5. Permitted Uses.

- a. Single family dwelling.
- b. Temporary second dwelling during construction of a new dwelling on a lot/parcel five (5) acres or larger in size and Zoned NES.
- c. Temporary second dwelling for family supportive care on a lot/parcel five (5) acres or larger in size and Zoned NES.
- d. Up to one (1) free-standing sign per parcel, up to twelve (12) square feet in size and eight (8) feet in height.
- e. Solar Energy Systems – Rooftop and Ground Mount.
- f. Small Wind Energy Conversion System on a lot/parcel Zoned NES.
- g. Private/vacation home rental (meeting occupancy and capacity standards).

6. Permitted Accessory Uses.

- a. Accessory buildings.

7. Conditional Uses.

- a. Parks and playgrounds.
- b. Historic sites.
- c. Planned unit developments.
- d. Guest cottage (riparian lot only).
- e. Controlled access lots.

(1.) Controlled access lots are not allowed in shoreland zoned Natural Environment, except in Class A, Category 1. Non-riparian owners will not be allowed mooring sites on Class A, Category 1 controlled access lots.

- f. Those commercial uses which serve local permanent residents and resort industry, such as grocery stores, marine supplies, equipment and service; restaurants, recreational equipment sales and privately owned and licensed recreational activity.
- g. Bed and breakfast facilities.
- h. Home occupations.
- i. Parking lot.
- j. Two-family dwellings.
- k. Boarding house.
- l. Temporary second dwelling during construction of a new dwelling on a lot/parcel less than five (5) acres in size and Zoned NES. Temporary second dwelling during construction of a new dwelling on a lot/parcel five (5) acres or larger in size and Zoned GDS/RDS.
- m. Temporary second dwelling for family supportive care on a lot/parcel five (5) acres in size or larger and Zoned GDS/RDS. Temporary second dwelling for family supportive care on a lot/parcel less than five (5) acres in size and Zoned NES.
- n. Signs between twelve (12) and thirty-two (32) square feet in size and up to eight (8) feet in height, when located within fifty (50) feet of the edge of a roadway with a posted speed of fifty-five (55) miles per hour or higher.
- o. More than one (1) free-standing sign per parcel.
- p. Illuminated signs, subject to the standards required elsewhere in this ordinance.

- q. Electronic changeable copy signs, when on a property with an approved business or home occupation.
- r. Solar energy systems – community and solar farm.
- s. Private/vacation home rental (exceeding overnight guest occupancy).
- t. Private/vacation home rental (exceeding property capacity).
- u. Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the District by the Planning Advisory Commission.

8. Building Setback Requirements and Regulations.

- a. Height regulations.

(1.) No building shall exceed a height of twenty-five (25) feet.

- b. Road setbacks (the most restrictive shall apply).

	Road Setback (feet)	
	<u>Right-of-Way Or Easement</u>	<u>Center Line</u>
(1.) Federal Road	50	-
(2.) State Road	50	-
(3.) County Road:		
(a.) Urban	-	75
(b.) Rural	-	100
(4.) Township Road	32	65*
(5.) Cartway, Alley, Avenue, Private accesses serving more than two parcels and other roads	32	48*

*Centerline setback shall not apply in cases where the adjacent road is in platted right-of-way of at least sixty-six (66) feet in width and the right-of-way has not been identified in official government documents for future expansion beyond a sixty-six (66) foot right-of-way. If any portion of an existing road is located outside of a right-of-way, regardless of the width of the right-of-way, the right-of-way setback shall apply as measured from the edge of the travelled road surface of the actual right-of-way, whichever is more restrictive.

- c. Side yard setbacks.

(1.) Lot existence prior to August 9, 1966 - six (6) feet, three (3) feet to eaves.

(2.) Lot existence after August 9, 1966 - ten (10) feet, five (5) feet to eaves.

(a.) If an attached two (2) family home is constructed on two (2) contiguous conforming lots, a zero (0) lot line setback is permitted between the two lots for the dwelling structure and driveway.

d. Rear Yard Setbacks

(1.) Lake, river, and wetland setbacks.

	<u>Ordinary High Water Level</u>			
		Buildings Sewered Prior to <u>1/01</u>	Sewered <u>After 1/01</u>	ISTS <u>System</u>
	<u>Unsewered</u>			
<u>Lakes</u>				
Natural Environment	150	150	150	150
Recreational Development	100	75	100	75
General Development	75	50	75	75
<u>Rivers</u>				
Transition	150	150	150	100
Agriculture	100	50	50	75
Tributary	100	50	50	75

(2.) Other rear yard setbacks (that side opposite lake side for riparian lots).

(a.) Riparian and non-riparian lot.

- i. Twenty-five (25) feet for dwellings.
- ii. Ten (10) feet for accessory buildings.

(b.) Bluff.

- i. Bluff – thirty (30) feet.

(c.) Bluff impact zone.

- i. Buildings and accessory facilities, except stairways, landings and those items regulated by shoreland alteration permits, must not be placed within this designated area.

(d.) Shore impact zone.

- i. Buildings and accessory facilities, except stairways, landings and those items regulated by shoreland alteration permits, must not be placed within this designated area.

(e.) Multiple setbacks.

- i. When more than one (1) setback applies to a site, buildings and facilities must be located to meet all setbacks. Where principal buildings exist on the adjoining lots on both sides of a proposed building site, building 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.

e. Other regulations and setbacks.

	<u>Buildings</u>		<u>Sewage</u>
	<u>Unsewered</u>	<u>Sewered</u>	<u>Treatment System</u>
(1.)Wetlands.			
(a.)Protected Wetland	50	50	50
(b.)Unprotected Wetlands within NES Zoning	50	50	50
(c.)All Other Wetlands	25	25	50

9. Lot Area Requirements and Regulations.

	<u>Riparian Lots</u>		<u>Non- Riparian Lots</u>	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
a. Unsewered Lakes.				
(1.)Natural Environment				
Class A Category 1	80,000	200	80,000	200
Class A Category 2	80,000	250	80,000	250
Class A Category 3	90,000	300	90,000	300
Class B	80,000	200	80,000	200
(2.)Recreational Development	40,000	150	40,000	150
(3.)General Development	20,000	100	40,000	150

	Riparian Lots		Non- Riparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
b. Sewered Lakes.				
(1.) Natural Environment				
Class A Category 1	60,000	200	60,000	200
Class A Category 2	60,000	250	60,000	250
Class A Category 3	70,000	300	70,000	300
Class B	60,000	200	60,000	200
(2.) Recreational Development	40,000	150	40,000	150
(3.) General Development	20,000	100	20,000	100
c. Rivers.				
(1.) Transition	60,000	250	60,000	250
(2.) Agricultural	40,000	150	40,000	150
(3.) Tributary	30,000	100	40,000	100

d. Minimum lot depth.

(1.) One hundred fifty (150) feet.

e. Lot coverage.

(1.) The total area of all buildings and other impervious surfaces shall not cover more than twenty-five (25) percent of the lot area within one thousand (1,000) feet of a Recreational Development or General Development Lake.

(2.) The total area of all buildings and other impervious surfaces shall not cover more than twenty (20) percent of the lot area within one thousand (1,000) feet of a Natural Environment Lake.

f. General regulations.

(1.) Additional requirements are set forth in Section V, Performance Standards.

g. Fences.

(1.) Fences may be placed on the property line if they are maintenance free or can be maintained from within the perimeter and two (2) feet from the property line if they are maintained outside of the perimeter or are not maintenance free. All such fences are to have a height of no greater than six (6) feet from the original ground to the highest point, regular structure setbacks apply to the ordinary high water mark (OHW).

h. Minimum buildable area.

(1.) All newly created lots must have a minimum buildable area of seven thousand, four hundred (7,400) square feet for sewerer lots within any lake classification and unsewered riparian lots on General Development Lakes. All other lots shall have a minimum buildable area of seventeen thousand, four hundred (17,400) square feet.

10. Overlapping Zoning Classifications in Shoreland Districts.

In the event that different zoning classifications in shoreland districts overlap, riparian lots will be regulated according to the lake upon which they have frontage. All other parcels and land uses will be governed by the most restrictive classification.

E. Commercial District (C)

1. Purpose.

To provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region.

2. Permitted Uses.

- a. Agricultural; limited, however, to plant husbandry and sale of plants and produce.
- b. Retail sales and/or service, with no outdoor storage.
- c. Automobile accessory store with no outdoor storage.
- d. Bowling alley.
- e. Restaurant, on/off sale liquor sales, supper club and fast food establishments.
- f. Laundromat/dry cleaning.
- g. Motel/hotel and/or convention centers.
- h. Health/fitness center, racquetball club and roller rinks.
- i. The offices of members of recognized professions, such as doctors of medicine, optometry, dentistry, chiropractors, engineers, lawyers and architects.
- j. Light manufacturing of parts and assembly.
- k. Church.
- l. Hospitals, nursing homes.

- m. Financial institutions.
 - n. Commercial planned unit developments.
 - o. Mini-storage.
 - p. Nurseries/garden store.
 - q. Gas and convenience store.
 - r. Contractor offices, shops and yards without outdoor storage.
 - s. Solar energy systems – rooftop, ground mount, and community.
 - t. Small wind energy conversion system.
 - u. Private/vacation home rental (meeting and exceeding overnight guest capacity)
 - v. Up to two (2) freestanding signs per parcel, each up to one hundred twenty (120) square feet in size. Signs may be illuminated, unilluminated or electronic changeable copy freestanding signs per parcel subject to the additional standards for illuminated and electronic changeable copy signs elsewhere in this ordinance.
3. Permitted Accessory Uses.
- a. Accessory buildings.
4. Conditional Uses.
- a. Retail sales and/or service with outdoor storage.
 - b. Auto repair.
 - c. Machinery, equipment sales, storage and service.
 - d. Cabinet shop.
 - e. Veterinarian.
 - f. Residential housing – including multiple family and boarding house.
 - g. Adult Uses.
 - h. Hot mix plant.
 - i. Ready mix plant.

- j. Contractor offices, shops, and yards with outdoor storage.
 - k. Wireless telecommunication towers.
 - l. More than two (2) freestanding illuminated, unilluminated or electronic changeable copy signs per parcel, when the total combined size of all freestanding signs (whether permitted or conditional) does not exceed two hundred fifty (250) square feet.
 - m. Up to one (1) sign with a messaging area no greater than six hundred seventy-five (675) square feet when located within one hundred (100) feet of the right-of-way of a highway having a posted or statutory speed limit of greater than sixty-five (65) miles per hour.
 - n. Non-Temporary Portable signs.
 - o. Motion signs.
 - p. Inflatable signs.
 - q. Roof signs, constructed.
 - r. Signs with more than two (2) faces.
 - s. Solar energy system – solar farm.
 - t. Private/vacation home rental (exceeding property capacity).
 - u. Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Advisory Committee.
5. Building Setback Requirements and Regulations.
- a. Height regulations.
 - (1.) Subject to other limitations, no building shall exceed forty (40) feet in height.
 - b. Road setbacks (the most restrictive shall apply).

	Road Setback (feet)	
	Right-of-Way	
	<u>Or Easement</u>	<u>Center Line</u>
(1.) Federal Road	50	-
(2.) State Road	50	-
(3.) County Road:		
(a.) Urban	-	75
(b.) Rural	-	100
(4.) Township Road		65*
(5.) Cartway, Alley, Avenue		
Private Accesses serving more than two parcels and other roads	32	48*

*Centerline setback shall not apply in cases where the adjacent road is in platted right-of-way of at least sixty-six (66) feet in width and the right-of-way has not been identified in official government documents for future expansion beyond a sixty-six (66) foot right-of-way. If any portion of an existing road is located outside of a right-of-way, regardless of the width of the right-of-way, the right-of-way setback shall apply as measured from the edge of the travelled road surface of the actual right-of-way, whichever is more restrictive.

c. Side yard setbacks.

(1.) Ten (10) feet, five (5) feet to eaves.

d. Rear yard setbacks.

(1.) Twenty-five (25) feet for commercial buildings.

(2.) Ten (10) feet for accessory buildings.

e. Other regulations.

(1.) Wetlands.

Wetlands are regulated by local, state, and federal governments. In this Ordinance wetlands are subject to building and sewer setback regulations. For the purposes of this Ordinance wetlands are divided into two categories:

(a.) Protected Wetlands - consist of wetlands identified on the Protected Waters Inventory map that have not been assigned a shoreland management classification.

(b.) All Other Wetlands - consist of all wetlands not identified on the Protected Waters Inventory map. Applicable setbacks are as follows:

- i. building setback from protected wetlands is fifty (50) feet;
- ii. building setback from all other wetlands is twenty-five (25) feet.

6. Lot Area Requirements and Regulations.

a. Commercial lot area.

- (1.) Served by central sewer system – fifteen thousand (15,000) square feet.
- (2.) Served by private sewer system – thirty thousand (30,000) square feet.
- (3.) All lots located in the Shoreland District must meet the minimum lot size requirements of the particular shoreland district.

b. Minimum lot width.

- (1.) One hundred (100) feet.

c. Minimum Lot Depth.

- (1.) One hundred fifty (150) feet.

d. Lot coverage.

- (1.) The total area of all buildings and other impervious surfaces shall not cover more than seventy-five (75) percent of the lot area unless the property is part of a development plan that accounts for runoff, additional provisions in Section V., R. Erosion Control and Storm Water Management, may apply.

e. Integrated developments.

- (1.) The above lot requirements need not necessarily apply to integrated developments under single ownership, which developments shall be submitted to the Planning Advisory Commission for their consideration. Plans for such developments shall include plans and other architectural drawings indicating function, floor plans, elevations, and typical vehicular circulation system, ingress and egress points and control, special landscape and fencing treatment along abutting land uses of a different type and the layout of adequate off-street parking and loading and unloading facilities.

f. Buffer.

- (1.) A buffer may be required to be established between a commercial district and all other districts. The type of buffer required shall be determined by the Planning Advisory Commission.

g. Screening and fencing.

(1.)The County may require the screening or fencing of commercial uses, to prevent visual blight, especially on side yards which face all other zoning districts. All storage within five hundred (500) feet of a residential zone or public right-of-way shall be completely enclosed by a building or effectively screened by landscaping and a solid wall or fence.

h. General regulations.

(1.)Additional requirements are set forth in Section V., Performance Standards, including, but not limited to, the Erosion Control and Storm Water Management section of this Ordinance.

i. Minimum buildable area.

(1.)All newly created lots must have a minimum buildable area of nineteen thousand, four hundred (19,400) square feet.

F. Industrial District (I)

1. Purpose.

To provide for industrial uses in areas that will not be incompatible with other land uses in the County.

2. Permitted Uses.

a. Transportation or freight terminal.

b. Wholesale business.

c. Warehouse.

d. Cabinet shop.

e. Dwelling units for security persons and their families located on the premises where they are employed.

f. Heavy manufacturing and assembly.

g. Contractor's offices, shops and yards.

h. Solar energy systems – rooftop, ground mount, and community.

i. Small wind energy conversion systems.

- j. Up to two (2) freestanding signs per parcel, each up to one hundred twenty (120) square feet in size. Signs may be illuminated, unilluminated or electronic changeable copy freestanding signs per parcel subject to the additional standards for illuminated and electronic changeable copy signs elsewhere in this ordinance.
3. Permitted Accessory Uses.
- a. Accessory buildings.
4. Conditional Uses.
- a. Restaurants.
 - b. Retail trade.
 - c. Mining and extraction.
 - d. Auto repair/salvage yard.
 - e. Residential housing – including multiple family and boarding house.
 - f. Adult uses.
 - g. Concrete/bituminous storage/recycling facility.
 - h. More than two (2) freestanding illuminated, unilluminated or electronic changeable copy signs per parcel, when the total combined size of all freestanding signs (whether permitted or conditional) does not exceed two hundred fifty (250) square feet.
 - i. Up to one (1) sign with a messaging area no greater than six hundred seventy-five (675) square feet when located within one hundred (100) feet of the right-of-way of a highway having a posted or statutory speed limit of greater than sixty-five (65) miles per hour.
 - j. Non-Temporary Portable signs.
 - k. Motion signs.
 - l. Inflatable signs.
 - m. Roof signs, constructed.
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 - p. Wireless telecommunication towers.

- q. Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Advisory Commission.

5. Building Setback Requirements and Regulations.

- a. Height regulations.

(1.) Subject to other limitations. No building shall exceed forty (40) feet in height.

- b. Road Setbacks (the most restrictive shall apply).

	Road Setback (feet)	
	Right-of-Way	
	<u>Or Easement</u>	<u>Center Line</u>
(1.) Federal Road	50	-
(2.) State Road	50	-
(3.) County Road:		
(a.) Urban	-	75
(b.) Rural	-	100
(4.) Township Road	32	65*
(5.) Cartway, Alley, Avenue		
Private Accesses serving more		
than two parcels and other roads	32	48*

*Centerline setback shall not apply in cases where the adjacent road is in platted right-of-way of at least sixty-six (66) feet in width and the right-of-way has not been identified in official government documents for future expansion beyond a sixty-six (66) foot right-of-way. If any portion of an existing road is located outside of a right-of-way, regardless of the width of the right-of-way, the right-of-way setback shall apply as measured from the edge of the travelled road surface of the actual right-of-way, whichever is more restrictive.

- c. Side yard setbacks.

(1.) Ten (10) feet; five (5) feet to eaves.

- d. Rear Yard Setbacks.

(1.) Twenty-five (25) feet for industrial buildings.

(2.) Ten (10) feet for accessory buildings.

- e. Other regulations.

(1.)Wetlands.

Wetlands are regulated by local, state and federal governments. In this Ordinance wetlands are subject to building and sewer setback regulations. For the purposes of this Ordinance wetlands are divided into two categories:

(a.)Protected Wetlands - consist of wetlands identified on the Protected Waters Inventory map that have not been assigned a shoreland management classification.

(b.)All Other Wetlands - consist of all wetlands not identified on the Protected Waters Inventory map. Applicable setbacks are as follows:

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a. Industrial lot area.

(1.)Served by central sewer system – fifteen thousand (15,000) square feet.

(2.)Served by private sewer system – thirty thousand (30,000) square feet.

b. Minimum lot width.

(1.)One hundred (100) feet.

c. Minimum lot depth.

(1.)One hundred fifty (150) feet.

d. Lot coverage.

(1.)The total area of all buildings and other impervious surfaces shall not cover more than seventy-five percent (75%) of the lot area unless the property is part of a development plan that accounts for runoff, additional provisions in Section V., Performance Standards, R., Erosion Control and Stormwater Management, may apply.

e. Integrated developments.

(1.)The above lot requirements need not necessarily apply to integrated developments under single ownership, which developments shall be submitted to the Planning Advisory Commission for their consideration. Plans for such developments shall include plans and other architectural drawings indicating function, floor plans,

elevations, and typical vehicular circulation system, ingress and egress points and control, special landscape and fencing treatment along abutting land uses of a different type and the layout of adequate off-street parking and loading and unloading facilities.

f. Buffer.

(1.) A buffer may be required to be established between an industrial district and all other districts. The type of buffer required shall be determined by the Planning Advisory Committee.

g. Screening and fencing.

(1.) The County may require the screening or fencing of industrial uses, to prevent visual blight, especially on side yards which face all other zoning districts. All storage within five hundred (500) feet of a residential zone or public right-of-way shall be completely enclosed by a building or effectively screened by landscaping and a solid wall or fence.

h. General regulations.

(1.) Additional requirements are set forth in Section V., Performance Standards, including, but not limited to, Section R., Erosion Control and Storm Water Management, of this Ordinance.

i. Minimum buildable area.

(1.) All newly created lots must have a minimum buildable area of nineteen thousand, four hundred (19,400) square feet.

SECTION IV. PLANNED UNIT DEVELOPMENT

A. Purpose

The purpose of a Planned Unit Development (PUD) is to enable imaginative and creative land uses, which emphasizes flexibility and open space. The customary one lot - one building requirement is altered in an effort to accomplish the following:

1. To encourage a more creative and efficient approach to the use of land.
2. To allow variety in the types of environment available to the residents of the community.
3. To provide the means for greater creativity and flexibility in environmental design than is provided under the application of the Zoning and Land Development (subdivision) Ordinances while at the same time preserving the health, safety and general welfare of the community and its inhabitants.
4. To enhance the development by preserving natural areas of beauty such as hills, dales, streams, and ridges. To create a feeling of open space by the use of green areas and belts, etc., providing a continual flow of open area in and around site development. To provide for the natural location of buildings within a site and to provide economy of development through the use of good street design, grouping of buildings, and preservation of natural features.

B. Application

All Planned unit developments shall comply with all requirements of this Ordinance.

1. Pre-application Meeting.
 - a. Prior to the submission of any plat for consideration to the Planning Advisory Commission under the provisions of this Ordinance, the developer/applicant shall meet with the Director of Land and Resource Management to learn what shall be expected.
 - b. All planned unit development plats must be reviewed by the county surveyor for a preliminary plat check.
2. Application.

The developer/applicant shall file a plat for residential PUDs and plans for commercial PUDs to the Director of Land and Resource Management for consideration by the Planning Advisory Commission. All preliminary residential planned unit development plats must be accompanied by a preliminary plat checklist from the county surveyor.

C. Zoning Use District Regulations

1. Residential Shoreland District.

A Planned Unit Development (PUD) may be allowed in a Residential Shoreland District provided a conditional use permit has been approved by the County. Developments must contain a tract of land two and one-half (2.5) acres or larger and have a minimum of three hundred (300) feet of shoreline for riparian property or a minimum lot width of three hundred (300) feet for non-riparian property.

a. Residential and Commercial Planned Unit Development Density.

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine development density:

(1.) Site "suitable area" evaluation.

(a.) Planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/site density evaluation.

i. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

<u>Shoreland Tier Dimensions</u>	<u>Unsewered (Feet)</u>	<u>Sewered (Feet)</u>
General Development Lakes - First Tier	200	200
General Development Lakes - Second and Additional Tiers	267	200
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
River Classifications	300	300

ii. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(2.) Residential and Commercial PUD Density Evaluation. The procedures for determining the "base" density of a PUD are as follows:

(Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.)

(a.) Residential PUD "base" density evaluation:

- i. The suitable area within each tier is divided by the single residential lot size standard.
- ii. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Section IV., D., 2.b., below.

(b.) Commercial PUD "base" density evaluation:

- i. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements unless they are habitable space.
- ii. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development Floor Area Ratio Public Waters Classes.

*Average Unit Floor Area (Sq. Feet)	Sewered General Development Lakes; first tier on unsewered general development lakes; agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes; recreational development lakes; transition river segments	Natural Environment Lakes
200	0.040	0.020	0.010
300	0.048	0.024	0.012
400	0.056	0.028	0.014
500	0.065	0.032	0.016
600	0.072	0.038	0.019
700	0.082	0.042	0.021
800	0.091	0.046	0.023
900	0.099	0.050	0.025
1,000	0.108	0.054	0.027
1,100	0.116	0.058	0.029
1,200	0.125	0.064	0.032
1,300	0.133	0.068	0.034
1,400	0.142	0.072	0.036
1,500	0.150	0.075	0.038

*For average unit floor, for areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

- iii. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- iv. Divide the total floor area by tier computed in Item iii., above, by the average inside living area size determined in Item i., above. This yields a base number of dwelling units and sites for each tier.
- v. Proposed locations and number of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein, and the design criteria in Section IV., D., 2.b.

(3.) Density Increase Multipliers.

(a.) Increases to the dwelling unit or site base densities previously determined are allowable if the standards in Section III. are met or exceeded and the design criteria in Section IV., D., 2.b., are satisfied. All fractional numbers are rounded to the lowest whole number to determine the allowable dwelling unit or site base density per tier.

i. Residential PUD Density Increase Multipliers:

<u>Density Evaluation Tier</u>	<u>Maximum Density Increase Within Each Tier</u>	
	(Percent)	(Multiplier)
First	0	1.00
Second	25	1.25
Third and Beyond	25	1.25

ii. Commercial PUD Density Increase Multipliers:

<u>Density Evaluation Tier</u>	<u>Maximum Density Increase Within Each Tier</u>	
	(Percent)	(Multiplier)
First	0	1.00
Second	25	1.25
Third and Beyond	25	1.25

iii. Existing Commercial PUD Density Increase Multipliers: (Those operations in existence as of the adoption of the Ordinance revision dated, March 29, 2005.)

<u>Density Evaluation Tier</u>	<u>Maximum Density Increase Within Each Tier</u>	
	(Percent)	(Multiplier)
First	50	1.50
Second	100	2.00
Third and Beyond	200	3.00

(4.) Commercial PUD Crowding Indicator Evaluation and Lake Frontage.

(a.) Crowding Indicator.

During consideration of the applications for commercial planned unit developments, particular attention shall be paid to the crowding of the lake. The crowding indicator is defined as acres of water divided by the total sum of potential lot development and the individual units within the commercial planned unit developments.

Acres of Water / Potential Lot development + commercial PUD units

Applications for the conditional use permits for commercial planned unit development may be legitimately denied if the crowding indicator is less than:

- i. 2.5 acres on a General Development Lake.
- ii. 3.0 acres on a Recreational Development Lake.
- iii. 3.5 acres on a Natural Environment Lake.

(b.)Lake Frontage.

Commercial planned unit developments adjacent to a lake must have sufficient lake frontage per unit as follows:

	Minimum Lake Frontage (feet)		
	<u>GDS</u>	<u>RDS</u>	<u>NES</u>
Manufactured Home	25	37.5	50
Recreational Equipment	8	12	16
Small Resort Cabin	25	37.5	50
Large Resort Cabin	50	75	100

b. Existing Resort Conversions to Residential Planned Unit Developments.

The conversion of a resort to a residential planned unit development often reduces lake usage. Many existing resorts are nonconforming and contain resort facility deficiencies. The conversion of resorts is often supported by neighboring property owners and may be allowed provided a conditional use permit has been approved by the County. In resort conversions, units must remain the same type of use that was initially allowed, cabins must remain cabin sites and recreational vehicles must remain recreational vehicle sites. Resort conversions are subject to the following standards and additional standards may be required by the Douglas County Commissioners if deemed necessary for health, safety, and welfare purposes:

- (1.)Resort conversions must be initially evaluated using the same procedures for residential planned unit developments. Inconsistencies between existing features of the development and these standards must be identified. Resort conversions are exempt from the conventional minimum land tract requirement of two and one-half (2.5) acres and three hundred (300) feet of shoreline.
- (2.)Resort conversions with density deficiencies that exceed standards in Section IV., C., 1., a., shall remove one (1) unit for every three (3) of the units exceeding density standards, with the odd number of units rounded to the nearest multiple of three (3). Therefore, removal would be as follows and continues in multiples of three (3) with removal of one (1) additional unit:

- 1 through 4 units – remove 1
- 5 through 7 units – remove 2
- 8 through 10 units – remove 3
- 11 through 13 units – remove 4
- 14 through 16 units – remove 5
- 17 through 19 units – remove 6
- 20 through 22 units – remove 7
- 23 through 25 units – remove 8
- 26 through 28 units – remove 9
- 29 through 31 units – remove 10

The County Board shall have the authority to determine which units are to be removed based on the following considerations:

- Size, age and condition of the units.
- Inadequate building setbacks from road, lake, wetland or side property line.
- Buildings fronting the lake are minimized.

All further resort density deficiencies may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future.

- (3.) Resort conversions with deficiencies involving water supply, sewage treatment, impervious coverage, open space, and shore recreational facilities must be corrected as part of the conversion or as specified in the conditional use permit.
- (4.) Shore and bluff impact zone deficiencies must be evaluated, and reasonable improvements made, as part of the conversion. These improvements must include, where applicable, the following:
 - (a.) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zone.
 - (b.) Remedial measures to correct erosion sites, improve vegetative cover and screening of buildings and other facilities as viewed from the water.
 - (c.) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
- (5.) Planned unit developments shall have adequate parking and storage for all units.

(6.)The entire land area of the resort must be included in the planned unit development unless new planned unit development guidelines can be met.

- c. Improvements on existing resorts and residential PUD's that have received a conditional use permit for a resort conversion.

Resorts, and resorts converted to residential planned unit developments, are important to our local economy, and tourism is an industry that needs to be maintained; it is with this understanding that existing resorts shall be able to be improved, without increasing the number of dwelling units or bedrooms, provided the following items can be met:

- (1.)Impervious surface requirements will need to be proven and met in accordance with this Ordinance.
- (2.)Open space requirements must be proven and met in accordance with this Ordinance.
- (3.)Replacements and improvements, including additions, may be made to existing units provided that the improvements meet the non-PUD structure setbacks of the appropriate Residential Shoreland District.

2. Residential District, Rural Residential District, and Agricultural District.

A planned unit development may be allowed in a Residential District, Rural Residential and Agricultural District provided a conditional use permit has been approved by the County. Developments must contain a tract of land two and one-half (2.5) acres or larger and have a minimum lot width of three hundred (300) feet.

- a. Residential and commercial planned unit development density planned unit developments must be evaluated using the following procedures and standards to determine development density:

(1.)Site "suitable area" evaluation.

(a.)Planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/site density evaluation.

- i. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the lot front at the following intervals:

	Tier Dimensions	
	Unsewered	Sewered
	<u>(Feet)</u>	<u>(Feet)</u>
Residential District	300	150
Rural Residential District	300	300
Agricultural District	300	300

- ii. The suitable area within each tier is next calculated by excluding from the tier area all wetlands and bluffs. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(2.) Residential and Commercial PUD Density Evaluation.

The procedures for determining the "Base" density of a planned unit development are as follows: (allowable densities may be transferred from any tier to any other tier further from the lot front, but must not be transferred to any other tier closer.)

(a.) Residential PUD "Base" Density Evaluation:

- i. The suitable area within each tier is divided by the single residential lot size standard.
- ii. Proposed locations and number of dwelling units for the planned unit development are then compared with the tier, density, and sustainability analyses herein and the design criteria in Section IV., D., 2.b.

(b.) Commercial PUD Density Evaluation.

- i. The suitable area within each tier is divided by the following applicable single lot area standard:

<u>Unit</u>	<u>Square Footage*</u>
Manufactured Home	5,000
Recreational Equipment	2,000
Resort Unit	5,000

*Additional suitable area equal to the single lot area per unit shall be designated for the purpose of roadways, sanitary facilities, water wells, parking, and recreational areas.

- ii. Proposed locations and number of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Section IV., D., 2.b.

(3.) Density Increase Multipliers.

(a.) Increases to the residential dwelling unit base densities previously determined are allowable if the standards in Section III. are met or exceeded and the design criteria in Section IV., D., 2.b., are satisfied. The multiplier is as follows: All fractional numbers are rounded to the lowest whole number to determine the allowable dwelling unit or site base density per tier.

i. Residential PUD Density Increase Multipliers:

<u>Zoning District</u>	<u>Maximum Density Increase</u>	
	(Percent)	(Multiplier)
Residential	100	2.0
Rural Residential	100	2.0
Agricultural	100	2.0

ii. Commercial PUD density increase multipliers are not allowed in the Residential, Rural Residential, or Agricultural Districts.

D. Requirements and Regulations

1. Building setback requirements and regulations footprints of PUD must meet setbacks.

	<u>Planned Residential (Feet)</u>	<u>Unit Development Commercial (Feet)</u>
a. Residential Shoreland District.		
<u>Height</u>	25	25
<u>Roads</u>		
Federal and State Right-of-Way	50	50
Urban County -Right-of-Way	50	50
Rural County -Right-of-Way	50	50
Township -Right-of-Way	32	32
<u>Side Yard</u>	50	50*
<u>Rear Yard</u>		
Riparian		
General Dev.	115	115
Recreational Dev.	150	150
Natural Env.	225	225
Top of Bluff	30	30
Non-Riparian		
Rear Yard	50	50
<u>Wetland</u>		
Protected Wetland		
Unsewered	50	50
Sewered	50	50
All Other Wetlands		
Unsewered	25	25
Sewered	25	25

b. Residential District, Rural Residential, and Agricultural District.

	Planned Unit Development	
	Residential	Commercial
	(Feet)	(Feet)
<u>Height</u>	35	35
<u>Roads</u>		
Federal and State Right-of-Way	50	50
Urban County -Right-of-Way	50	50
Rural County -Right-of-Way	50	50
Township -Right-of-Way	32	32
<u>Side Yard</u>	50	50*
<u>Rear Yard</u>	50	50
<u>Wetland</u>		
Protected Wetland		
Unsewered	50	50
Sewered	50	50
All Other Wetlands		
Unsewered	25	25
Sewered	25	25

*There shall be a buffer between the commercial planned unit development and adjacent properties. The type of buffer is to be determined by the Planning Advisory Commission.

2. General Requirements and Regulations.

a. Lot width and side yard setback (commercial PUD only).

	Minimum (Feet)	
	<u>Width</u>	<u>Side yard Setback</u>
(1.)Manufactured Home	50	5
(2.)Recreational Equipment	40	5

b. Maintenance and design criteria.

(1.)Maintenance and administration requirements.

(a.) Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

(b.) Open Space Preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

- i. Commercial uses prohibited (for residential PUDs).
- ii. Vegetation and topographic alterations other than routine maintenance prohibited.
- iii. Construction of additional buildings or storage of vehicles and other materials prohibited.
- iv. Uncontrolled beaching of watercraft prohibited.

(c.) Development Organization and Functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owner's association with the following features:

- i. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.
- ii. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.
- iii. Assessments must be adjustable to accommodate changing conditions.
- iv. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

(2.) Open space requirements.

Planned unit developments must contain open space, meeting all of the following criteria:

- (a.) At least fifty (50) percent of each tier, and of the total project area, must be preserved as open space.
 - i. Existing Commercial PUD (Those operations in existence as of the adoption of the Ordinance revision dated, March 29, 2005.) At least fifty (50) percent of the total project area must be preserved as open space.
- (b.) Dwelling units or sites, road right-of-way, or land covered by road surfaces, parking areas, or structures are developed areas and shall not be included in the computation of minimum open space.
- (c.) Open space must include areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries.

- (d.) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public. Open space must not include commercial facilities or uses.
- (e.) Open space may include sub-surface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
- (f.) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.
- (g.) The shore impact zone, based on normal structure setbacks, must be included as open space. At least fifty (50) percent of the shore impact zone area of the existing developments or at least seventy (70) percent of the shore impact zone area of new developments must be preserved in its natural or existing state.
- (h.) A ten (10) foot buffer, which cannot be considered open space, must be placed around all existing and proposed impervious surfaces.

(3.) Erosion control and storm water management.

Erosion control and storm water management plans must be developed in accordance with this Ordinance and the PUD must:

- (a.) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring, either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district or a professional engineer may be required if project size and site physical characteristics warrant.
- (b.) Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage of the development must not exceed twenty-five percent (25%). Impervious surface coverage of the first tier must not exceed twenty-five percent (25%). The first tier of commercial PUD's on general development lakes may be allowed thirty-five percent (35%) impervious surface coverage with an approved storm water management plan and consistency with Section V., L., 2.

(4.) Centralization and design of facilities.

Centralization and design of facilities and structures must be done according to the following standards:

- (a.) Planned Unit Developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards of the Minnesota Department of Health and Minnesota Individual Sewage Treatment System (Minnesota Rules Chapter 7080). On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.
- (b.) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Residential planned unit developments must maintain a minimum of eighteen (18) feet of open air space between units.
- (c.) Shore recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). A controlled access lot to serve those units outside of the first tier may be requested and any such request must be noted on the conditional use permit application and shown on the preliminary plat. Controlled access lots within planned unit developments must be double the overall square footage requirement of a standard lot and must have double the minimum lot width requirement for a standard lot within the zoning district in which the property is located. A controlled access lot within a planned unit development may contain up to four (4) mooring sites that will be in addition to any mooring sites granted to first tier units. Additional mooring sites may be granted if the controlled access lot is enlarged in accordance with the dimension and frontage requirements found in Section V., L., 9., a., (2.). Notwithstanding the above paragraph, the number and location of docks and/or mooring sites may be limited by the County Board after consideration of the relevant factors listed above.

- (d.) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- (e.) Accessory structures and facilities must meet the required principal structure setback and must be centralized.
- (f.) Private roadways must maintain the following road widths:
 - i. if parking on both sides of the road—a forty (40) foot wide road is required;
 - ii. if parking on one side of the road—a thirty-two (32) foot wide road is required;
 - iii. if no parking on the road—a twenty-four (24) foot wide road is required.
- (g.) Five hundred (500) square feet of off street parking space shall be required for each unit.
- (h.) Private roadways must be built to a seven (7) ton seasonal load restriction minimum standard. The driving surface must be constructed of bituminous surface or concrete and consist of a minimum two (2) driving lanes, each no less than eleven (11) feet in width.

3. Presentation Requirements for all PUDS.

a. Preparation.

- (1.) The preliminary plat must be prepared by a Minnesota licensed land surveyor.
- (2.) The preliminary plat must include a density study.
- (3.) All preliminary plats must show the footprints of all structures to be built including accessory structures.

b. Scale.

- (1.) Plats shall be submitted at a true engineering scale no less than one (1) inch equals two hundred (200) feet.

c. Plat Legend.

- (1.) Proposed name of the subdivision, which name shall not duplicate or be similar in pronunciation to the name of any plat recorded in the County.
 - (2.) Location by section, township, range or by other identifying description including township name, lake name and number.
 - (3.) Names and addresses of the fee title owner, subdividor, and surveyor.
 - (4.) Zoning district: existing and proposed (if requested).
 - (5.) Floodplain.
 - (6.) Easements.
 - (7.) Articles of incorporation, association bylaws and declaration of covenants.
 - (8.) Water source.
 - (9.) Sewage treatment.
 - (10.) School district.
 - (11.) Telephone Company.
 - (12.) Power Company.
 - (13.) Fire district.
 - (14.) Soil type.
 - (15.) Soil percolation test data. One (1) percolation test shall be performed for every five hundred (500) feet per tier.
 - (16.) Date of preparation.
- d. Existing conditions in the tract and in surrounding area to a distance of three hundred (300) feet.
- (1.) Boundary line of proposed subdivision clearly indicated.
 - (2.) Total acreage.
 - (3.) Platted streets, right-of-way, utility, and other easements.
 - (4.) Boundary lines and ownership of adjoining land.

(5.) Sewers, wells, water mains, culverts, utilities or other underground facilities.

(6.) Buildings and structures.

(7.) Topography showing a lake, wetland, reservoir, watercourse or flowage; bluffs and steep slopes; and the one hundred (100) year floodplain (if applicable). The use of USGS ten (10) foot contour data will be acceptable except bluffs and steep slopes shall be shown in the two (2) foot contour intervals. Additional contour intervals of two (2) feet may be required, should the County Surveyor or Planning Advisory Commission deem it necessary to aid in review.

(8.) The ordinary high water level (if established by the DNR) shall be shown.

(9.) Historic sites.

e. Subdivision design features.

(1.) Layout and width of proposed streets and utility easements showing lake setback boundaries, buffer zone boundaries, lot boundaries, dedicated roads, and proposed location of the sewage system with alternate location, if applicable.

(2.) Preliminary street grades and drainage plans shall be shown on a copy of the contour map.

(3.) Graphic scale.

(4.) North point.

(5.) A line or contour representing the ordinary high water level (if determined by the DNR), the toe and the top of the bluff and the minimum building setback for the bluff and lake, wetland, reservoir, watercourse or flowage if the subdivision is on a riparian lot.

SECTION V. PERFORMANCE STANDARDS

The performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that may cause a blight or are detrimental to the environment. All future development in all districts shall be required to meet these standards and the standards shall also apply to existing development where so stated.

Before any land use permit is approved, the Director of Land and Resource Management, or a representative thereof, shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage.

A. Signs

1. Purpose and Intent.

It is not the purpose or intent of these sign standards to regulate the message displayed on any sign; nor is it the purpose or intent of this ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from the outside of a building. The purpose and intent of this section is to:

- a. Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the County in order to protect and promote the public health, safety, and welfare.
- b. Maintain, enhance, and improve the aesthetic environment of the County by preventing visual clutter that is harmful to the appearance of the community.
- c. Improve the visual appearance of the County while providing for effective means of communication, consistent with constitutional guarantees and the County's goals of public safety and aesthetics.
- d. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this sign ordinance.
- e. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this sign ordinance.
- f. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety, and welfare.

g. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the County.

2. Permits Required.

No sign, unless specifically exempted by this ordinance, shall be erected, altered, reconstructed, or moved without first securing a sign permit from the County. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

3. Exemptions.

The following signs shall not be counted against the maximum square footage of signage allowed per parcel. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the size, height, location and other provisions of this ordinance or any other law or ordinance regulating the same.

a. The changing of the display surface on a previously approved or legal nonconforming painted or printed sign provided that no structural changes are made, and the sign face does not increase in size; or provided that the replacement sign is consistent with a previously issued permit, unless such sign has been deemed abandoned.

b. Individual signs not exceeding one (1) square foot in size.

c. Up to three (3) unilluminated signs per parcel which are each six (6) square feet or less in size.

d. Signs which are:

(1.) Located no closer than seventy-five (75) feet to the edge or curb of any traveled road surface; and

(2.) Not greater in size than six (6) square feet and with any letters or numbers not greater than three (3) inches in height.

e. Public and Traffic Signs.

Any public sign (directional, safety, danger, trespassing, traffic, warning, public information or public organization) erected by, or on the order of, a duly constituted public office of City, Township, County, State, or Federal governments.

f. Integral Signs.

Signs of any size carved into stone, concrete, or similar material and an integral part of a legally constructed structure.

g. Wall or Roof Signs.

Signs which are entirely attached flat against a building wall or flat against a roof, provided such signs do not exceed the height of the highest peak of the building.

h. Certain Signs Attached to Non-Building Structures.

Signs up to two (2) square feet in size which are made of bronze, aluminum, plastic, wood or other permanent type construction, or which are attached to a non-building structure and do not exceed the height of the structure.

i. Private Traffic Direction Signs.

Signs directing traffic movement onto a premise or within a premise, not exceeding eight (8) square feet in area for each sign.

j. The established or official flag, pennant or insignia of any nation, organization of nations, state, province, county, city, any religious, civic or fraternal organization, or educational institution: provided, however, that a flag used in connection with commercial promotion or as an advertising device shall be regulated as a sign under this ordinance. Exempt flags may be of any height or size.

k. Temporary signs listed elsewhere in this ordinance.

l. Any signs which are required to be posted by state or federal law.

4. Prohibited Signs.

The following signs are prohibited signs:

- a. Any sign, signal, marking, or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from view or interferes with effectiveness of any official traffic-control device or any railroad sign or signal. Private traffic direction signs shall not be subject to this prohibition.
- b. Signs attached to public street/traffic signs, utility poles, bridges, towers, or similar public structures or property, unless specifically authorized by the relevant road or right-of-way authority. Signs in violation of this subdivision may be removed by authorized personnel at the discretion of the road or right-of-way authority, without advance notice to the sign owner.
- c. Any other structure, banner, balloon, trailer, building, portable device, or anything visible from a public road which is used as an advertising device is prohibited unless specifically authorized or exempted by this ordinance.

- d. No sign shall be permitted to obstruct any door, fire escape, stairway or other opening intended to provide ingress or egress of any building or structure.
- e. Signs which use highly reflective surfaces and that may create a blinding effect when exposed to light.
- f. Signs shall not be permitted within public right-of-way or easements nor shall a sign extend into the airspace over such a right-of-way or easement, except with the express permission of the regulatory authority.
- g. Signs which are affixed to wireless telecommunication or other tower structures, except as are necessary or required for safety and/or maintenance.
- h. Portable signs (unless exempted as a temporary sign), motion signs and inflatable signs in all zoning districts except Commercial/Industrial districts.

5. Temporary Signs.

All temporary signs, whether permitted or exempt, shall meet the following specifications and any applicable requirements of the “General Provisions,” Subsection 6., below, of this ordinance.

a. General.

(1.)Height.

Shall not exceed fifteen (15) feet, except when attached to the wall of a building.

(2.)Setbacks.

May be placed up to, but not extend over, a property line, except where greater setbacks are required from a lake or stream by this ordinance.

(3.)Anchoring.

Shall be securely anchored to the ground or to a structure so as to prevent damage or displacement during winds of eighty (80) miles per hour or greater.

b. The following shall be considered temporary signs:

- (1.)One (1) sign, up to the maximum size allowed in the relevant zoning district, per subdivision or development which has undeveloped lots actively listed for sale, except where such subdivision or development fronts more than one (1) public road, it may have one sign per public road frontage.

(2.) Up to one portable sign, up to thirty-two (32) square feet in size, shall be considered a temporary sign when located on a property for no more than fourteen (14) days in any ninety (90) day period.

(3.) All signs shall be considered temporary signs when located on a property from August 1 to ten (10) days following a general election, and thirteen (13) weeks prior to any special or township election until ten (10) days after said election, or when otherwise exempted from local sign ordinances by state law during election season, as defined by the state.

c. Temporary signs that have not been removed within the specified period may be ordered removed by the enforcing official, unless permitted as a permanent sign, where allowed.

6. General Provisions.

a. Spacing.

Signs located within twenty-five (25) feet of any other sign may be considered one (1) sign for the purposes of this ordinance if they are placed in such a way as to circumvent the size limitations imposed on any one (1) sign, as determined by the enforcing official.

b. Setbacks.

All sign setbacks as required by this ordinance shall be measured to the furthest horizontal extent of the sign. Minimum setbacks for signage shall be as follows:

(1.) Side and rear yard minimum setbacks, in all zoning districts, shall be ten (10) feet or 110% the height of the sign, whichever is greater.

(2.) Public road and railroad minimum setbacks in all zoning districts shall be at least two (2) feet from the right-of-way or 110% the height of the sign from the edge of the road surface, whichever is greater.

(3.) Ordinary high water level (lake or river) minimum setbacks shall be no less than 50% of the minimum structure setback applicable to a dwelling.

c. Height.

All heights as identified by this ordinance shall be measured to the furthest vertical extent of the sign.

d. Sign Area Calculation.

The area within the frame shall be used to calculate the square footage (rounded to the nearest foot), regardless of whether or not more than one side is used. If such letters or graphics are mounted directly on a wall or fascia or in such way as to be without a frame,

square footage shall be calculated as the area within the periphery around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Symbols, flags, pictures, wording, figures, or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures, suspended by balloons or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage. Double-faced signs which have a 90-degree angle or less between the two (2) faces need only count one face for the purpose of calculating area. Three (3) or more faces on a sign shall be counted against the maximum size allowed.

e. Illumination.

Where allowed, illumination for signs, whether internal or external, shall be so constructed and maintained so that the source of light is diffused and not directly visible by a motorist or pedestrian viewing the sign.

f. No sign shall be placed in such a way that it creates a safety hazard by obstructing lines of sight for motorists or pedestrians or physically blocks a pedestrian corridor.

g. Electronic Changeable Copy Signs. Electronic changeable copy signs, where allowed, must meet the following requirements, in addition to any other requirements that would otherwise apply:

(1.) Any electronic changeable copy sign capable of displaying pictures, graphics, video or scrolling words/numbers, whether such displays are permitted or not, shall be limited to a total of thirty-two (32) square feet of display area. In commercial and industrial zoning districts, display areas may be allowed up to the maximum size sign permitted in that zoning district.

(2.) Messages or graphics displayed on an electronic changeable copy sign must be presented in a static manner, with the message changing no more than once every five (5) seconds. The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.

(3.) Electronic changeable copy signs which scroll, flash, strobe, blink, pulse, fade, illuminate with varying light intensity or changing colors, or create the illusion of movement (including video displays) are prohibited.

(4.) Any electronic changeable copy sign designed for the sole purpose of displaying printable characters (letters, numbers, punctuation marks or symbols) in a static format shall be regulated as a non-electronic changeable copy sign, provided that the digital display may change its message not more than once per hour.

(5.) No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle. Electronic changeable copy signs shall automatically

dim by at least fifty percent (50%) between the period of one-half hour after sunset and one-half hour prior to sunrise.

(6.) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

(7.) Electronic changeable copy signs must be designed to freeze the display or turn the display completely off if it malfunctions.

(8.) Sign owners must immediately turn off an electronic changeable copy sign when notified by the county that it is not complying with the standards of this ordinance.

(9.) Electronic changeable copy signs must be turned off between 10 p.m. and 5 a.m., unless otherwise permitted by conditional use permit.

h. Sign Lettering.

All lettering or numbering shall be such that it is readable by a passing motorist at a glance. Unless otherwise required/allowed by this ordinance or by the requirements of a conditional or interim use permit, all letters, numbers and symbols (except periods, commas, dashes or other punctuation marks typically smaller than letters) shall be at least six (6) inches in height (capital letters) and four and one-half (4½) inches in height (lowercase letters). This requirement shall not apply to signs identified in Subsection 3., Exemptions, or Subsection 5., Temporary Signs, above.

i. Freestanding Canopies or Awnings.

A freestanding canopy and its support poles, such as above an outdoor service area, or a freestanding awning and its support poles, when permanently or semi-permanently affixed to the ground, shall be permitted as a structure and are not considered signs for the purposes of this ordinance. Signs that are an integral part of, or which are attached to, a freestanding canopy or awning or their support poles shall be regulated as a wall or projecting sign.

7. Fees.

Sign permit fees are as established by the adopted fee schedule.

8. Specific Regulations by Zoning District.

a. Residential and Residential Shoreland Zoning Districts.

(1.) Signs requiring an administrative permit, when not otherwise exempted by this ordinance.

- (a.) Up to one (1) free-standing sign per parcel, up to twelve (12) square feet in size and eight (8) feet in height.
- (2.) Signs requiring a conditional use permit, when not otherwise exempted by this ordinance.
 - (a.) Signs between twelve (12) and thirty-two (32) square feet in size and up to eight (8) feet in height, when located within fifty (50) feet of the edge of a roadway with a posted speed of fifty-five (55) miles per hour or higher.
 - (b.) More than one (1) free-standing sign per parcel.
 - (c.) Illuminated signs, subject to the standards required elsewhere in this ordinance.
 - (d.) Electronic changeable copy signs, when on a property with an approved business or home occupation.
- (3.) Prohibited signs.
 - (a.) Signs larger than thirty-two (32) square feet in size.
 - (b.) Signs greater than eight (8) feet in height.
 - (c.) Roof signs, constructed.

b. Rural Residential Zoning District.

- (1.) Signs requiring an administrative permit, when not otherwise exempted by this ordinance.
 - (a.) Up to one (1) free-standing illuminated, unilluminated or electronic changeable copy sign per parcel, up to thirty-two (32) square feet in size and up to fifteen (15) feet in height subject to the additional standards for illuminated and electronic changeable copy signs elsewhere in this ordinance.
- (2.) Signs requiring a conditional use permit, when not otherwise exempted by this ordinance.
 - (a.) Illuminated or unilluminated signs between thirty-two (32) and forty-eight (48) square feet in size and up to fifteen (15) feet in height, when located within fifty (50) feet of the edge of a roadway with a posted speed of fifty-five (55) miles per hour or higher.
 - (b.) More than one (1) free-standing sign per parcel.

(3.) Prohibited signs.

(a.) Signs larger than forty-eight (48) square feet in size.

(b.) Signs greater than fifteen (15) feet in height.

(c.) Roof signs, constructed.

c. Agricultural Zoning District.

(1.) Signs requiring an administrative permit, when not otherwise exempted by this ordinance.

(a.) Up to one (1) free-standing illuminated, unilluminated or electronic changeable copy sign per parcel, up to thirty-two (32) square feet in size and up to fifteen (15) feet in height, subject to the additional standards for illuminated and electronic changeable copy signs elsewhere in this Ordinance.

(2.) Signs requiring a conditional use permit, when not otherwise exempted by this ordinance.

(a.) Illuminated or unilluminated signs between thirty-two (32) and forty-eight (48) square feet in size and up to fifteen (15) feet in height, when located within fifty (50) feet of the edge of a roadway with a posted speed of fifty-five (55) miles per hour or higher.

(b.) More than one (1) free-standing sign per parcel.

(3.) Prohibited signs.

(a.) Signs larger than forty-eight (48) square feet in size.

(b.) Signs greater than fifteen (15) feet in height.

d. Commercial/Industrial Zoning Districts.

(1.) Signs requiring an administrative permit, when not otherwise exempted by this ordinance.

(a.) Up to two (2) freestanding signs per parcel, each up to one hundred twenty (120) square feet in size. Signs may be illuminated, unilluminated or electronic changeable copy freestanding signs per parcel subject to the additional standards for illuminated and electronic changeable copy signs elsewhere in this ordinance.

(2.) Signs requiring a conditional use permit, when not otherwise exempted by this ordinance.

- (a.) More than two (2) freestanding illuminated, unilluminated or electronic changeable copy signs per parcel, when the total combined size of all freestanding signs (whether permitted or conditional) does not exceed two hundred fifty (250) square feet.
- (b.) Up to one (1) sign with a messaging area no greater than six hundred seventy-five (675) square feet when located within one hundred (100) feet of the right-of-way of a highway having a posted or statutory speed limit of greater than sixty-five (65) miles per hour.
 - i. Minimum spacing for signs greater than two hundred fifty (250) square feet in size shall be consistent with minimum side yard setbacks required by this ordinance and with Minnesota Statutes Chapter 173, as amended, which includes the following:
 - a.) From other such signs:
 - i.) Five hundred (500) feet when signs are located along an interstate highway or freeway.
 - ii.) Three hundred (300) feet when signs are located along a primary highway.
 - b.) From an interchange, intersection at grade, or safety rest area:
 - i.) Five hundred (500) feet, when signs are located along an interstate highway or freeway.
 - ii.) Three hundred (300) feet, when signs are located along a primary highway.
 - c.) From a railroad:
 - i.) Three hundred (300) feet, when signs are located along a primary highway.
- (c.) Non-Temporary Portable signs.
- (d.) Motion signs.
- (e.) Inflatable signs.
- (f.) Roof signs, constructed.
- (g.) Signs with more than two (2) faces.

(3.)Maximum height for freestanding signs.

(a.)First sign.

Twenty (20) feet, except that up to thirty-five (35) feet may be allowed when located within one hundred (100) feet of the edge of a roadway with a posted speed of fifty-five (55) miles per hour or higher.

(b.)Additional signs: Fifteen (15) feet.

(4.)Prohibited signs.

(a.)Signs with a total height greater than thirty-five (35) feet above the grade of the adjoining roadway.

(b.)Signs identified in Subsection 4., above, of this ordinance.

9. Additional Provisions for Water-Oriented Business Signs.

a. In addition to regulations applicable to the relevant zoning district, on shoreland properties where resorts, bait shops, restaurants or other permitted or legal nonconforming businesses exist, the following shall apply to signs located so as to be visible from a lake or stream:

(1.)Maximum size, any one (1) sign: Thirty-two (32) square feet.

(2.)Maximum height for freestanding signs:

Fifteen (15) feet or twenty-five (25) feet above the ordinary high water level of the adjoining lake or river, whichever is more restrictive.

(3.)Maximum number of non-exempt freestanding signs per parcel: one (1) per water frontage.

b. Signs requiring a conditional use permit, when not otherwise exempted by this ordinance.

(1.)Illuminated signs.

(2.)Roof signs, constructed.

c. Prohibited signs.

(1.)Electronic changeable copy signs.

(2.)Portable signs.

(3.) Motion signs.

(4.) Inflatable signs.

10. Non-Conforming Signs.

It is recognized that signs exist within the zoning districts which were lawful before this sign ordinance was enacted, which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. It is the intent of this sign ordinance that legal nonconforming signs and supporting structures shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs and supporting structures existing on the effective date of this sign ordinance, or amendments thereto, to continue as legal nonconforming signs or supporting structures provided such signs are safe, are maintained so as not to be unsightly, and the sign has not been abandoned or removed subject to the following provisions.

- a. No sign or supporting structure shall be enlarged or altered in a way which increases its nonconformity.
- b. Should such sign or sign structure be destroyed by any means to an extent greater than fifty (50) percent of its replacement cost and no permit has been applied for within one hundred eighty (180) days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- c. Should such sign or supporting structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- d. No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, extended, or moved; except in changing the sign to a sign permitted in the zoning district in which is it located.

11. Inspection, Maintenance, Removal.

a. Inspection.

Any sign for which a permit is required may be inspected periodically by the County for compliance with this ordinance and all other applicable laws.

b. Maintenance.

- (1.) The owner, lessee, or manager of any monument sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.

- (2.) All signs shall contain current information. Outdated signs or signs with information that is outdated shall be removed by the property owner or lessee.
- (3.) Painting, repainting, cleaning and normal maintenance and repair of a sign or sign structure is required to protect the sign and prevent its deterioration and maintain its neat appearance. Such maintenance is allowed without permit unless a structural change is made.
- (4.) Any sign located in the County which may now be or hereafter become out of order, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced, reconstructed or moved contrary to the provisions of this section, shall be removed or otherwise properly secured in accordance with the terms of this section by the owners thereof or by the owners of the grounds on which said sign shall stand, upon receipt of proper notice so to do, given by the issuing authority. No rotten or other unsafe sign shall be repaired or rebuilt except in accordance with the provisions of this section and upon a permit issued by the issuing authority.

c. Removal.

- (1.) Abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises.
- (2.) Illegally erected signs shall be removed by the owner or lessee of the premises upon which the sign is located upon notice by the County of its illegal status.
- (3.) If the owner or lessee fails to remove an abandoned or illegally erected sign, the County shall remove it in accordance with this section. These removal provisions shall not apply to abandoned signs where a succeeding owner or lessee conducts the same type of business and agrees to maintain the signs as provided in this ordinance or changes copy on the signs to advertise the type of business being conducted on the premises and provided the signs comply with the other provisions of this ordinance.
- (4.) Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety must be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which the sign is located.
- (5.) The County shall order the removal of any sign erected or maintained in violation of this ordinance. Ten (10) days' notice in writing shall be given to the owner of such sign, or of the building, structure or premises on which such sign is located, to remove the sign or to bring it into compliance with the ordinance. Upon failure to remove the sign or to comply with this notice, the County may remove the sign. The County may remove the sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any costs of removal incurred by the County shall be assessed to the

owner of the property on which such sign is located and may be collected in the manner of ordinary fee collection or in the manner of taxes and all costs shall be assessed against the property. Signs located within the right-of-way of County Roads may be removed by the County at any time without notice.

B. Outdoor Storage

In all zoning use districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties and/or a public road except for the following: operable equipment for recreational use and equipment being temporarily used on the premises, agricultural equipment and materials if they are used or intended for use on the premises, off-street parking of operable passenger automobiles and pick-up trucks and storage of firewood for home heating.

C. Refuse

In all zoning use districts, the fee title owner shall be responsible for keeping such land free of the following waste material, debris, discarded or inoperable machinery, and other refuse.

1. Inoperable Automobiles.

- a. Any inoperative or unlicensed automobile, truck or other machinery shall be kept in an enclosed building or screened in such a manner as not to be visible from any public road or street or adjacent properties. This provision shall include but not be limited to auto salvage yards, implement yards, and equipment yards.
- b. Any inoperative automobiles, trucks, implements or equipment not so screened shall be deemed abandoned and shall be ordered removed within a specified time by the Director of Land and Resource Management.

2. Solid Waste.

- a. The current edition of the Douglas County Solid Waste Ordinance as, from time to time, amended by the Douglas County Board of Commissioners is hereby adopted by reference and made a part of this Ordinance as if fully set forth herein. In addition, the following shall apply to all solid waste generators in any zoning use district established by this Ordinance:

(1.) All solid waste shall be kept in a closed container until it is delivered to a County and State approved final disposal site.

(2.) The occupant of all properties shall be responsible for the proper handling of all said waste containers taken to the road, street, or alley for pick up by a licensed collector.

- (3.) All solid waste containers shall be placed in the location designated by the licensed collector not more than twelve (12) hours before collections. All containers shall be removed from the pickup location within twelve (12) hours after collection.
- (4.) All generators of solid waste shall be responsible for legally disposing of the material either by directly depositing the material at a licensed facility or by contracting with a licensed collector. No generator of solid waste shall combine solid waste with another generator.
- (5.) The incineration of all solid waste at an unauthorized waste processing facility is prohibited. This includes, but is not limited to, “burning barrels.”
- (6.) All incinerated ash will be disposed of in an approved landfill. The transportation and management plan must be approved by the Land and Resource Management Department.

b. All demolition material shall be disposed of in an approved demolition landfill or recycled.

3. Nuisances.

a. The following are declared to be nuisances affecting public health or safety:

- (1.) The effluent from any cesspool, septic tank, drain field, or human sewage disposal system discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.
- (2.) The pollution (point or nonpoint) of any public well or cistern, stream or lake, canal or body of water by sewage, domestic animal waste runoff, industrial waste, or other substances.
- (3.) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges or latches, or providing locks to prevent access by the public.

D. Screening

Where any business or industry (i.e., building, parking or storage) is located adjacent to property zoned for residential use or where residential housing exists or where it is located adjacent to a public or private institution or park and recreational area, that business or industry shall provide appropriate screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone or residential housing.

The screening required in this section shall consist of earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination, or singularly, so as to block direct visual access to an object. The use of discarded tires is an inappropriate form of screening material.

E. Parking Requirements

1. Minimum Size Regulations.

- a. Each space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than eight and one-half (8.5) feet and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives.

2. Reduction and Use of Parking Space.

- a. On-site parking facilities existing at the effective date of this Ordinance shall not be reduced to an amount less than that required under this Ordinance for a similar new building or use. On-site parking facilities provided to comply with the provisions of this Ordinance shall not be reduced below the requirements of this Ordinance. Such required parking space shall not be used for the storage of goods or for storage of vehicles that are inoperable or for sale or rent.

3. Computing Requirements.

- a. In computing the number of parking spaces required, the following rules shall govern:

(1.) Floor space shall mean the gross floor area of the specific use.

(2.) When fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

(3.) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Director of Land and Resource Management or the County Planning Advisory Commission.

4. Sale of Parking Areas.

- a. Property that constitutes required off-street parking may not be separated through sales or other means from the property containing the principal use for which the parking area is required.

5. Yards.

- a. On-site parking requirements shall not be subject to front, side, and rear yard regulations for the district in which parking is located, except that: in the Commercial (C) and Industrial (I) Districts, no parking shall be located within ten (10) feet of any property

line that abuts any Residential (R), Residential Shoreland (RS), or Agricultural (A) District.

6. Buffer Fences and Planting Screens.

- a. On-site parking areas near or abutting Residential and Shoreland Districts shall be screened by a buffer fence of adequate design or a planting buffer screen. Plans of such screen or fence shall be submitted for approval as part of the site plan, and such fence or landscape shall be installed as a part of the initial construction.

7. Required Number of On-Site Parking Spaces.

- a. On-site parking area of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises for each use. The minimum number of required on-site parking spaces for the following uses shall be as follows:

<u>Land Use</u>	<u>Number of Parking Spaces</u>	<u>Unit Measure</u>
Residential Dwelling Units	1	Unit
Boarding house	1	Bedroom
Private/vacation home rental	1	Bedroom
Offices, Service, Research, or Testing Uses	1	200 Sq. Ft
Automotive, Trailer, or Marine Sales and Service	1	800 Sq. Ft.
Elementary and Junior High Schools	1	Class Room
	1	50 Student Capacity
High School, College, Private, Day, and Church Schools	1	7 Students
	1	3 Class Rooms

...chart continued...

<u>Land Use</u>	<u>Number of Parking Spaces</u>	<u>Unit Measure</u>
Public or Religious Assembly Auditoriums or Exhibition Halls	1	4 Seats in Main area
Automotive Service Stations	4+2	Service Bay
Bowling Alleys	5	Bowling Alley
Fast Food Service	1	15 Sq. Ft. Service Area
Motel or Hotel	1	Rental Unit
	1	Each 10 Units
	1	Employee on Shift
Restaurant, Café, or Night Club	1	40 Sq. Ft. Seating Area
	1	80 Sq. Ft. Kitchen Area
Retail Sales and Service	1	200 Sq. Ft.
Storage, Wholesale, and Warehousing ¹	1	750 Sq. Ft.
	1	Company Owned Truck (if not stored inside building)
Manufacturing and Processing	1	350 Sq. Ft.
	1	Company Owned Truck (if not stored inside building)

¹ That space that is solely used as office, shall comply with the office use requirements.

8. Loading and Unloading Requirements.

- a. Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirement for each use.

F. Nonconformities

Within the districts established by this Ordinance or amendments that may later be adopted, there will exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance.

To avoid a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, and upon which actual construction has been diligently carried on, the construction

may continue. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed actual construction, provided that work shall be diligently carried on until completion of the building involved.

1. Nonconforming Uses of Land.

- a. Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1.) No such nonconforming use shall be increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

(2.) If a nonconforming use ceases to be used for a period of twelve (12) consecutive months, or is changed to a conforming use, any subsequent use shall meet the requirements of the zoning use district wherein located.

(3.) A nonconforming use shall not be moved to any other part of its site or to another site where it would still constitute a non-conforming use.

(4.) An otherwise permissible nonconforming use may be subject to additional restrictions for reasons of public health and safety.

- b. This subsection does not apply to recreational equipment, as it must be licensed, and all provisions of Section V., Performance Standards, K., Recreational Equipment, are in full force and effect thirty (30) days from the date of the adoption of this Ordinance by the Douglas County Board of Commissioners.

2. Nonconforming Structures.

- a. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1.) No such structure may be enlarged or altered in any way which increases its nonconformity without a variance, except for:

(a.) Additions to nonconforming structures, if such additions standing alone, would meet all setbacks of the Ordinance.

- (b.) Additions which comply with the "string line test" as defined in Section VIII., Definitions, of this Ordinance and meet the requirements of Section III., D., 8., d., (2.), (e.), i.
- (2.) Should such structure be destroyed by fire or other peril to an extent of more than fifty (50) percent of the assessor's market value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The fifty (50) percent replacement valuation must be calculated as a cumulative total for the life of the individual nonconforming structure. It is not the intent of this Ordinance to allow multiple construction projects on the individual nonconforming structure to manipulate the fifty (50) percent replacement valuation.
- (3.) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (4.) Alterations may be made to a residential structure when they will improve the livability of the building provided that they do not alter the dimensions of the exterior structure, including height, or increase the number of dwelling units, provided that setbacks are met, and that such alteration does not increase the nonconformity of the structure.
- (5.) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this Ordinance. Any deviation from these requirements must be authorized by a variance.

3. Nonconforming Uses of Structures.

- a. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (1.) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - (2.) A nonconforming use may be extended throughout a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
 - (3.) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use by the County Board, upon recommendation of the Planning Advisory Commission. In permitting

such change, the County Board may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.

(4.) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(5.) When a nonconforming use of a structure is discontinued or abandoned for twelve (12) consecutive months, the structure or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(6.) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

4. Construction of Nonconforming Lots of Record.

- a. Lots of record in the office of the County Recorder on the date of enactment of the Zoning Ordinance that do not meet the requirements of Section III., of this Ordinance, may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.
- b. A variance from setback requirements must be obtained before any use, sewage treatment system, or land use permit is issued for a lot. 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.
- c. If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section III., of this Ordinance, 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 (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the requirements of Section III., of this Ordinance, as much as possible. Husband and/or wife will be considered same ownership.
- d. A subdivision of a nonconforming lot shall not be approved where a later variance from one or more standards in the official controls would be needed to use the lots for their intended purpose.

G. Renewable Energy

1. Purpose and Intent.

The Douglas County Comprehensive Plan sets renewable energy development as a County priority. Policy LU7.2 states the county should “adopt language in the zoning Ordinance that permits alternative, non-carbon energy generation where it is compatible with surrounding land use and environment” The intent of this Section is to create standards for the reasonable capture and use, by households, businesses, and property owners, of their solar energy resource and wind energy resource, and encourage the use of non-carbon energy generation. This Section also sets limitations on wind energy development that is not compatible with priority natural resources or preferred land development as described in the Comprehensive Plan.

2. Solar Energy Systems by Type.

Solar Energy System Type

Zoning District	Rooftop	Ground-Mount	Community	Solar Farm
Agricultural	P	P	P	C
Rural Residential	P	P	P	C
Residential Shoreland GDS, RDS, NES	P	P	C	C
Residential	P	P	C	C
Commercial	P	P	P	C
Industrial	P	P	P	C

P - Permitted
C - Conditional

a. Roof

(1.)The following standards apply to rooftop solar energy systems.

(a.)These systems are permitted accessory uses in all districts in which buildings are permitted.

(b.)A land use permit is required to install a rooftop solar energy system.

(c.)In the Residential Shoreland Districts, in lots of forty-thousand (40,000) square feet or less and in all riparian lots, rooftop solar energy systems shall be designed to blend into the building or roof design. On pitched roofs [with slope greater than fifteen percent (15%)] panels shall be flush-mounted and shall not extend above the peak of the roof. Systems that do not meet these standards are not prohibited but shall require a conditional use permit.

b. Ground-mount solar energy systems.

- (1.)The following standards apply to ground-mount solar energy systems that are accessory to the principal land use, designed primarily to supply energy for the principal use on the site.
 - (a.)Ground-mount systems are permitted accessory uses in all districts in which buildings are permitted.
 - (b.)Ground-mount systems require a land use permit and are subject to the accessory use standards for the district in which the system is located, including setback, height, and impervious surface coverage limits, except as noted below.
 - (c.)Ground-mount solar energy systems shall not be counted as an accessory structure in regard to the limit of two (2) accessory structures per lot and one thousand, five hundred (1,500) square feet in Section V., J., 1., c. and d.
 - (d.)In the Residential Shoreland District, in lots of forty-thousand (40,000) square feet or less and in all riparian lots, ground-mount systems shall be located to limit visibility from the water in leaf-on conditions.

c. Community solar energy systems.

- (1.)The following standards apply to roof or ground-mount solar energy systems that may be either an accessory or principal use, and are designed to supply energy for off-site uses consistent with Minnesota Statutes 216B.1641; or successor statute.
 - (a.)Rooftop community solar energy systems are permitted in all districts in which buildings are permitted.
 - (b.)Ground-mount community solar energy systems are conditional uses in Residential and Residential Shoreland Districts and are permitted in all other districts in which buildings are permitted.
 - (c.)An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
 - (d.)All structures must comply with setback and coverage limitations for the district in which the system is located.
 - (e.)All ground-mount systems shall not exceed height limits for the district in which the collector is located, when the solar collector is at its maximum (steepest) design tilt.
 - (f.)Ground-mount systems must comply with all required set back coverage standards for structures in the district in which the system is located.

(g.) Ground-mount community solar energy systems are limited to one (1) per parcel.

(h.) In Residential Shoreland Districts, rooftop community energy systems must comply with rooftop solar energy system standards for that district.

d. Solar farms.

(1.) The following standards apply to ground-mount solar energy arrays that are the principal use on the lot, designed to provide energy to off-site uses or export to the wholesale market.

(a.) Conditional use.

i. Solar farms require a conditional use permit in all districts.

(b.) Stormwater and erosion control.

i. Solar farms are subject to stormwater management and erosion and sediment control requirements of Section V., R., Erosion Control and Stormwater Management.

(c.) Foundations.

i. 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.

(d.) Other standards and codes.

i. All solar farms shall be in compliance with any applicable local, state, and federal regulatory standards for solar energy systems.

(e.) Power and communication lines.

i. Power and communication lines running between banks of solar panels and to electric substations with buildings that are on adjacent parcels shall be buried underground. Exemptions may be granted by the Department in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or the distance to a substation reasonably precludes burial.

(f.) Site plan required.

i. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all structures, property lines, floodplains,

wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by the County.

3. General Solar Standards.

In addition to the standards above, all solar energy systems shall comply with the following standards.

a. Interconnection.

(1.) All electric solar energy systems that are connected to the electric distribution or transmission system, either directly or through the existing service of the principal use on the site, shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Off-grid systems are exempt from this requirement.

b. UL listing.

(1.) Electric solar system components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing or have been independently tested by a Nationally Recognized Testing Laboratory (NRTL).

c. Electric code.

(1.) All solar energy systems must comply with the Minnesota and National Electric Code.

d. Impervious surface, solar collector.

(1.) The collector surface of a ground-mount system is considered impervious surface, as is any foundation, compacted soil or other component of the solar installation that rests on the ground but is not under the collector surface.

e. Reflector systems.

(1.) All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, screening on the side of the solar array facing the reflectors, reducing use of the reflector system or other remedies that limit glare.

f. Height standards.

(1.) Building or roof mounted solar systems shall not exceed the maximum allowed height in any zoning district, except that solar energy systems shall be restricted or allowed consistent with other rooftop mechanical devices for the zoning district in which the system is being installed.

4. Wind Energy Conversion Systems (WECS) uses and setbacks.

The following requirements are applicable to all WECS:

	Class of Wind Development		
	Individual Turbines		Aggregated
	Small WECS	Large WECS	Wind Farm
Agricultural	P	C	C
Rural Residential	P	C	C
Residential	NA	NA	NA
Residential Shoreland GDS, RDS	NA	NA	NA
Residential Shoreland NES	P	NA	NA
Commercial	P	NA	NA
Industrial	P	NA	NA
Wind Energy Overlay ¹	P	C	C
Viewshed Overlay ¹	C	NA	NA

<p>P - Permitted C - Conditional NA - Not Allowed</p>

¹Where applied, the two overlay districts are the controlling standard in regard to wind development, including standards for use, design, and submittals.

Setback Feature	Class of Wind Development		
	Individual Turbines		Aggregated
	Small WECS	Large WECS	Wind Farm
Property Lines ¹	250 feet or 1.1 times the total height, whichever is greater	250 feet or 1.1 times the total height, whichever is greater	250 feet or 1.1 times the total height, whichever is greater
Right of Way	250 feet or 1.1 times the total height, whichever is greater	250 feet or 1.1 times the total height, whichever is greater	250 feet or 1.1 times the total height, whichever is greater
Occupied Structure ² – Participating	250 feet or 1.1 times the total height, whichever is greater	500 feet and sufficient distance to meet the state noise standard	500 feet and sufficient distance to meet the state noise standard
Occupied Structure ² - Nonparticipating	250 feet or 1.1 times the total height, whichever is greater	1,000 feet and sufficient distance to meet the state noise standard	1,000 feet and sufficient distance to meet the state noise standard
Project Boundary ³		5 times the rotor diameter	5 times the rotor diameter ⁴
Internal Turbine Spacing ⁵			5 rotor diameters downwind spacing, 3 rotor diameters apart for crosswind spacing

¹A recorded fall zone easement may be allowed in lieu of the required setback, provided all other setbacks are met.

²For the purpose of this Section, an occupied structure shall include, but is not limited to, structures such as residential dwelling units, schools, churches and places of business. In instances where a fall zone easement has been recorded, the occupied structure setback is not required. For small WECS, the setback for an occupied structure does not apply to structures on the same parcel as the WECS.

³Project boundary shall include all parcels of land which have a wind easement for one wind project.

⁴It has been documented that the most important directions to access wind energy production is north, northwest, southwest, and south therefore the County may authorize a setback of less than 5 times the rotor diameter if the applicant demonstrates that due to the wind direction, the wake interference is less than 5 rotor diameters.

⁵If required during final micro siting of the turbine towers to account for topographical conditions, up to 20 percent of the towers may be cited closer than the above spacing but the permittee shall minimize the need to site the turbine towers closer.

- a. Safety design standards. All WECS shall meet the following safety design standards:

(1.)Engineering Certification.

(a.) 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.

(a.) Rotor blades or airfoils must maintain at least twenty-five (25) feet of clearance between their lowest point and the ground.

(3.) Access.

(a.) All WECS utilizing a tower as the support structure 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.

b. Established wind resource.

(1.) WECS shall only be installed where there is an established wind resource. An established wind resource can be documented in any of the following ways:

(a.) The planned turbine site has a minimum eleven (11) MPH (four and eight tenths (4.8) meters/second) average wind speed at the designed hub height, as documented on the Minnesota Department of Commerce statewide wind speed maps.

(b.) The planned turbine has a minimum hub height of eighty (80) feet and the blade arc is thirty (30) feet higher, on a vertical measurement, than all structures and trees within three hundred (300) feet of the tower.

(c.) The applicant submits an analysis conducted by a certified wind energy installer or site assessor (North American Board of Certified Energy Professional, NABCEP, or equivalent) that includes estimates of wind speed a turbine height based on measured data, estimated annual production, and compliance with the turbine manufacturer's design wind speed.

(d.) The proposed turbine is within the Wind Energy Overlay district.

c. Electronic transmission.

(1.) No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions. The burden of proof shall be placed on the applicant to document that the proposed WECS will not interfere with the line of sight of other towers.

d. Braking.

(1.) All WECS to be installed shall be equipped with redundant braking systems, including aerodynamic, variable pitch over speed controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode, whereby they are engaged in the case of loss of load on the generator. Stall regulation shall not be considered a sufficient braking system for over speed protection.

e. Design.

(1.) To the extent feasible, projects involving multiple WECS shall consist of turbines of similar design, height, and size. All turbines shall rotate in the same direction and shall be consistent in design, color, and rotational direction with adjacent facilities.

f. Noise.

(1.) WECS shall, at a minimum, meet the noise standard of Minnesota Rules, chapter 7030; or successor rules. Additional, local limit relative to impulsive and pure tone noises may be imposed if the County determines it is appropriate and necessary to protect the public health and welfare.

g. Feeder lines.

(1.) All feeder lines used to collect power from individual turbines and all associated communication lines shall be buried underground. Exemptions may be granted by the Department in instances where shallow bedrock interferes with the ability to bury lines. Feeder lines installed as part of a WECS shall not be considered an essential service.

h. Color and finish.

(1.) All large wind turbines and towers shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finish shall be matte or nonreflective.

i. Decommissioning.

(1.) All WECS must be decommissioned at the end of the WECS' useful life or upon becoming a discontinued use. All applications for installing a WECS shall include a decommissioning plan to ensure that facilities are properly removed after their useful life:

(a.) Decommissioning Standards.

- i. The decommissioning shall include removal of all structure, feeder lines, and foundations, and restoration of soil and vegetation. Disposal of structures

and/or foundations shall meet the provisions of the Douglas County Solid Waste Ordinance.

(b.) Plan.

- i. The decommissioning plan shall address all aspects of decommissioning and shall include a cost estimate made by a competent party—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.

(c.) Financial assurances.

- i. In the case of facilities requiring a conditional use permit or interim use permit, the County may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

(d.) Discontinued use.

- i. A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed by a qualified individual or firm actable to the Douglas County Land and Resource Director, and submitted to the Director outlining the steps and schedule for returning the WECS to service. Decommissioning shall be completed within one hundred twenty (120) days.

j. Signs.

- (1.) Each WECS shall have one (1) sign not exceeding three (3) square feet posted at the base of the tower specifying the following information: warning, high voltage; manufacturer's name; and emergency phone numbers. No other signage is permitted on a WECS.

k. MnDOT tower registry.

- (1.) WECS less than two hundred (200) feet in total height must be registered with the Minnesota Department of Transportation small tower registry.

l. Road and easement protection.

- (1.) All applicants shall identify all county, city, or township roads or drainage systems to be impacted by or used for the purpose of transporting any equipment or supplies related to construction, operation and maintenance of a WECS and obtain applicable weight and size permits from the applicable road authority(ies) prior to construction. The applicant shall conduct a pre-construction survey with the local road and

drainage authority(ies) to determine existing road conditions and the conditions of any drainage utilities potentially impacted and shall document said conditions photographically and thereafter enter into written agreement with the appropriate road and drainage authority(ies) to document the road and/or drainage utility conditions. The applicant is responsible for restoring roads, bridges, or drainage utilities to preconstruction conditions or for paying damages as agreed to by the applicable road and drainage authority(ies).

5. Wind energy system standards by type.

- a. Small WECS (rotor swept area less than two hundred (200) sq. meters and total height of less than one hundred thirty (130) feet, except as allowed under a conditional use permit as described below). The following standards apply to small WECS:

(1.) Tower configuration.

- (a.) Small WECS must use self-supporting towers. Towers are also subject to the safety design standards of this Ordinance.

(2.) Maintenance.

- (a.) All WECS must have routine maintenance as recommended by the manufacturer and at a minimum of once every three (3) years. Maintenance must be completed by a qualified individual acceptable to the Director. Record of performed maintenance must be available for inspection by the County upon request.

(3.) Total height.

- (a.) Total height of the WECS is measured as the highest point, above ground level, reached by a rotor tip or any other part of the WECS. All small WECS must be less than one hundred thirty (130) feet in total height, except in the Wind Energy Overlay, where the height must be less than two hundred (200) feet. Small WECS up to two hundred (200) feet in height outside the Wind Energy Overlay may be allowed under a conditional use permit.

(4.) Turbine certification.

- (a.) Small WECS turbines shall be certified or in the process of being certified by the Small Wind Certification Council (SWCC), Micro-generation Certification Scheme (MCS), or must be listed by the Interstate Turbine Advisory Council.

- b. Large WECS (rotor swept area greater than two hundred (200) sq. meters and total heights greater than one hundred thirty (130) feet, except for small WECS allowed under a conditional use permit as described in the Ordinance). The following standards apply to large WECS:

(1.) Total height.

- (a.) Total height of the WECS is measured as the highest point, above ground level, reached by rotor tip or any other part of the WECS. All large WECS must be less than two hundred fifty (250) feet in total height, except in the Wind Energy Overlay, where there is no height limit.

(2.) Maintenance.

- (a.) A copy of the required maintenance report shall be filed with the County. Maintenance must be completed by a qualified individual acceptable to the Director.

(3.) Tower configuration.

- (a.) All large WECS must use self-supporting towers. The base for such towers shall be designed to anchor and support the tower for the site, and is further subject to the safety design standards of this Ordinance.

(4.) Additional information.

- (a.) The County may choose to consult with outside agencies and/consultants to determine if the application meets the requirements of this Ordinance, state, and federal laws. Any charges of fees resulting from such consultation will be the responsibility of the applicant for payment.

c. Aggregated projects.

- (1.) Aggregated projects shall meet all the requirements for large WECS. Aggregated projects may only be located within the Wind Energy Overlay.

6. Conformance with Other Standards.

In addition to the standards above, all WECS shall comply with the following standards:

- a. All WECS shall be in compliance with any applicable local, state, and federal regulatory standards, including the following:

(1.) The State of Minnesota Uniform Building Code, as amended; and

(2.) The National Electric Code, as amended; and

(3.) All applicable MNDOT Department of Aviation and Federal Aviation Administration requirements; and

(4.) The City of Alexandria Airport Zoning Ordinance.

- b. Setbacks from private air strips shall be determined on a case-by-case basis.
- c. Equipment for all WECS shall conform to the applicable industry standards, including the American Wind Energy Association Standard for Wind Turbine and related standards adopted by the American National Standards Institute (ANSI).
- d. Lighting of WECS, 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 bulbs should be avoided.
- e. WECS shall be located such that they do not cause interference with legal commercial or private telecommunication devices including, but not limited to radios, televisions, telephones, personal communication devices, and other electronic equipment or devices in accordance with the Federal Communications Commission.

7. Application Procedures – Small WECS.

All WECS projects shall be required to submit a Land Use Permit application. The WECS Land Use Permit application shall contain, or be accompanied by, the following information:

a. Site plan required.

(1.) Applicants requesting a construction site permit or conditional use permit for a WECS shall furnish a site plan showing the following information:

- (a.) Lot lines for the parcel where the WECS interconnects to a utility line or a building.
- (b.) Identification of zoning and overlay district(s) on the development lot and adjacent lots.
- (c.) The accurate location and height of all buildings, structures, above-ground utilities, and trees on the site and within five hundred (500) feet of each proposed small WECS.
- (d.) The proposed location of the WECS and any related guy wires, poles, or anchors.
- (e.) Interconnection points with the electric grid.
- (f.) A sketch elevation of the premises accurately depicting the proposed WECS and its relationship to structures on adjacent lots.

b. Wind resource.

(1.) Evidence that an adequate wind resource has been documented, consistent with Section V., G., 4., b.

c. Evidence of contract.

(1.) WECS that are not net metered, as defined under Minnesota Statutes 216B.164, or successor statutes, shall submit evidence of power purchase contracts.

d. Designated safety standards.

(1.) Manufacturer's description of all equipment and certifications as per safety design standards.

e. Natural and scenic resources.

(1.) Location of wetlands, scenic designations (by federal, state, county, or local government), areas that have been mapped or designated as habitat or natural area, parks, and shoreland within six hundred fifty (650) feet of each proposed small WECS.

f. Noise.

(1.) An acoustical analysis identifying noise levels in decibels at multiple distances from the turbine (manufacturer's testing and rating are acceptable documentation).

g. Decommissioning.

(1.) A decommissioning plan.

h. Communications equipment.

(1.) Identify all communications equipment within line of sight of the proposed turbine hub and document that the proposed WECS will not interfere with the line of sight between communication towers or emergency communications equipment.

i. Interconnection.

(1.) Means of interconnecting with the electrical grid.

8. Application Procedures – Large WECS.

All WECS projects shall be required to submit a Conditional Use Permit application. The application shall contain, or be accompanied by, the following information:

a. Site plan.

(1.) Applicants requesting a construction site permit or conditional use permit for a WECS shall furnish a site plan showing the following information:

(a.) Lot lines for the parcel on which the WECS is to be installed and, if different, the lot lines for the parcel where the WECS interconnects to a utility line or a building.

(b.) Identification of zoning and overlay district(s) on the development lot and adjacent lots.

(c.) The accurate location and height of all buildings, structures, above-ground utilities, and trees on the site and within three (3) rotor diameters of each large WECS.

(d.) The proposed location of the WECS and any related guy wires, poles, or anchors.

(e.) Interconnection points with the electrical grid.

(f.) A sketch elevation of the premises accurately depicting the proposed WECS and its relationship to the structures on adjacent lots.

b. Wind resource.

(1.) Evidence that an adequate wind resource has been documented, consistent with Section V., G., 4., b.

c. Protection from turbulence.

(1.) An analysis of the impact from the wind turbulence or other diminishment of wind resources to adjoining property owners from the proposed installation, affecting the adjoining property owner's ability to site WECS on their property.

d. Communications equipment.

(1.) Documentation that the applicant notified all communication tower operators within five (5) miles of the proposed WECS location and that the proposed WECS will minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signal. Document that the proposed WECS will not interfere with the line of sight of other towers.

e. Access roads.

(1.) Location of existing or proposed access roads.

f. Power purchase contracts.

(1.) WECS that are not net metered, as defined under Minnesota Statutes 216B.164, or successor statutes, shall submit evidence of power purchase contracts.

g. Safety design standards.

(1.) Manufacturer's description of all equipment and certifications as per safety design standards.

h. Natural and scenic resources.

(1.) Location of wetlands, scenic designations (by federal, state, county, or local government), areas that have been mapped or designated as habitat or natural area, parks, and shoreland within one thousand, three hundred twenty (1,320) feet of each proposed large WECS.

i. Noise.

(1.) An acoustical analysis identifying noise levels in decibels at multiple distances from the turbine (manufacturer's testing and rating are acceptable documents).

j. Decommissioning.

(1.) A decommissioning plan.

k. Interconnection.

(1.) Means of interconnecting with the electrical grid.

9. Aggregated Projects - Procedures.

a. State oversight.

(1.) Aggregated projects having combined capacity equal to or greater than the threshold for State oversight as set forth in Minnesota Statutes 216F.01 through 216F.08; or successor statutes, shall be regulated by the State of Minnesota.

b. Single application.

(1.) Proposers of Aggregated Projects must jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews, and as appropriate, approvals. Permits will be issued and recorded separately. Joint applications will be assessed fees as one project.

c. Submittal procedures.

(1.) Aggregated projects must follow the submittal procedures identified in Section V., G., and must also submit the following information:

(a.) Provide the latitude and longitude of individual wind turbines, a USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the proposed WECS, and a FAA permit application.

H. Abandonments

No use, structure, sign, building, vehicle, machine, or any other piece or article of real estate or personal property may be abandoned or permitted in any public or private place, because of disuse or neglect, to become unsightly or offensive to the public.

1. Removal and Restoration.

a. Any nonconforming use or use authorized by this Ordinance, when abandoned or discontinued, shall be removed or restored to as near its original state as is practicable. Non-use for a period of twelve (12) months shall be presumptive evidence of intention to abandon or discontinue.

2. Enforcement.

a. The penalty for such offense shall be the obligation to remove or correct such unsightly or offensive thing or condition or remove or restore such abandoned or discontinued use within a time to be fixed by the Director of Land and Resource Management. The same may be ordered, removed, or corrected and the cost thereof assessed against the owner of such property or the real estate on which the same is found to exist, together with all costs of prosecution.

I. Mining and Extraction

1. Purpose and Intent.

Modern lifestyles create a continuing demand for the various subsurface resources used throughout this county. These resources are unevenly and sometimes sparsely distributed, thus creating a continual shortage of some materials. In the past, excavation of these resources has presented conflicts with adjacent land uses, caused rapid soil erosion, and left unsightly scars upon the landscape.

By requiring restoration of the mined areas, it is the intent of this Ordinance to minimize conflicts with adjacent land uses, prevent soil erosion of the mined areas, and reduce the scarring of the landscape.

2. Jurisdiction.

The removal, crushing, washing, refining, stockpiling and/or processing of gravel or rock in any area shall be governed by this section unless such removal is being performed pursuant to a validly issued construction permit.

3. Permits.

- a. A conditional use permit shall be required for all mining operations and storage/recycling facilities except for temporary mining areas as defined by this section.
- b. A mining and extraction permit shall be required for temporary mining operations which meet the specifications of Section V., I.
- c. Owners of existing mining operations shall apply to the county for a conditional use permit within one (1) year of adoption of this Ordinance or cease operation. Operators may continue operations during permit applications and review process. The failure of an owner to acquire a permit as required by this Ordinance in no way absolves that owner of the reclamation responsibilities under this Ordinance.
- d. Permitted mining operations shall be subject to an administrative review by the Director of Land and Resource Management Department every five (5) years. This review shall not require payment of a fee.

4. Information Required.

- a. The following information shall be provided by the applicant requesting the permit:
 - (1.) Name and address of person or agency requesting the mining permit.
 - (2.) A copy of the recorded deed of the property.
 - (3.) A map of the proposed operation showing the following:
 - (a.) Structures to be erected.
 - (b.) Location of sites to be mined, showing depth of the proposed excavation.
 - (c.) Description of stationary machinery to be used in the mining operation.
 - (d.) Approximate location of the storage and mined materials.
 - (e.) Location of access roads and local routes to truck routes.
 - (f.) All setbacks from roads and property lines.

- (g.) Location of adjacent residences.
 - (h.) All lakes, streams, and wetlands on property.
 - (i.) Extent of vegetation in buffer area.
 - (j.) Location of explosives storage, if applicable.
- (4.) A plan for dust, stormwater run-off, and noise control.
- (5.) A full and adequate description of the proposed operations to include an estimate of the duration of the mining operation, locations, and acreage of each stage, and time schedule of completion.
- (6.) Reclamation plan and cost estimate of the reclamation.
- (7.) For all pits developed for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate forty (40) or more acres of land to a mean-depth of ten feet or more during its existence, an Environmental Assessment Worksheet completed at the owner's expense pursuant to Minnesota Rules 4410.4300, Subd. 12B.
- (8.) Any other information requested by the Planning Advisory Commission or County Board of Commissioners.

5. Performance Standards.

All mining operations, whether they are in operation at the time of this Ordinance adoption or are proposed shall follow the standards set forth in this section.

- a. Operators shall utilize all practical means to reduce the amount of dust caused by the operation. In no case shall the amount of dust or other particulate matter exceed the standards established by the Minnesota Pollution Control Agency.
- b. All entrances and exits shall be constructed so as not to create a safety hazard.
- c. It shall be the responsibility of the pit operator and/or fee title owner to control activity within the pit area and to clean up any debris or other material left on site.
- d. Excavation below the water table is permitted provided there is no adverse impact upon the quality and quantity of nearby surface water or nearby wells.
- e. All barriers installed at the operator's discretion which control access to a gravel pit such as gates, etc., shall be clearly visible to prevent safety hazards to snowmobiles and other members of the public. The use of cable, chain or similar types of barriers is prohibited.

- f. To minimize problems with dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties and/or between the mining or processing operation. The screening barrier shall be constructed or planted in accordance with the recommendations of the County Board and can include, but is not limited to, trees or shrubs adequately shielding the operations.
- g. Any operations within three hundred (300) feet of two (2) or more residential structures may be required to install safety fencing around all or portions of the mining operation.
- h. Processing of minerals shall not be conducted closer than one hundred (100) feet from the property line nor closer than one hundred (100) feet from any residential, commercial or industrial structures without the written consent of all owners and residents of said structures.
- i. All buildings, structures and plants used for the production of sand and gravel shall be maintained in such a manner as is practical and according to acceptable industrial practice as to assure that such buildings, structures, and plants shall not become dangerously dilapidated.
- j. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance.
- k. No storage of concrete and/or bituminous shall be allowed unless it meets the requirements of Section V., B.
- l. The provisions of this Ordinance apply to any acreage mined after June 28, 1988.

6. Reclamation Plan.

Before any permit is issued, the applicant must submit a reclamation plan for approval by the County.

For all mining operations, the reclamation plan shall contain a description of planned after-use of affected areas and the nature and extent of reclamation. A detailed reclamation map drawn at a scale of 1" = 100' or larger shall be provided designating which parts of the land shall be reclaimed for forest, pasture, crop, home site, recreational, industrial, or other uses including food shelter and ground cover for wildlife. The reclamation plan and map shall contain:

- a. The planned contours of the land when the mineral removal operations are completed; based upon the best information available.
- b. Proposed depth of topsoil, if applicable.
- c. Location and nature of any structures to be erected in relation to the after-use plan.

- d. Type of fill, if fill is proposed.
- e. Type of planting or reforestation. Planting shall be in accordance with the desires of the property owner. If no active planting or reforestation is proposed, the natural vegetation shall be monitored and any noxious weeds sprouting shall be cut and/or controlled.
- f. A written statement containing an explanation of the character of the site to be mined and/or the character of the surrounding territory and explanation of the reclamation plan; and an explanation of the schedule of development which shall include phase development. If a development schedule cannot feasibly be prepared, it shall be so stated and written reasons submitted.
- g. In the event the operator finds the characteristics of the mining area to be different than what was previously determined, changes may be made in the original reclamation plan by mutual consent of the operator and the County Planning Advisory Commission. Such change shall preserve as substantially as possible, the original reclamation plan, and shall also provide for the previously unknown variables.
- h. To assure the reclamation plan approved by the Planning Advisory Commission and County Board of Commissioners is being followed, Land and Resource Management staff may make those field measurements deemed necessary.
- i. The Board of County Commissioners may require either the applicant or the owner or user of the property on which the mining operation is located to post a bond, in such form and sum as the Board shall determine, not to exceed fifty thousand dollars (\$50,000) with sufficient surety running to the County, to comply with all the requirements of this Ordinance and to pay any expense the County may incur by reason of doing anything required to be done by any applicant to whom a Conditional Use Permit is issued.

7. Land Reclamation Standards.

Reclamation shall be a continuing operation occurring as quickly as possible after the mining operation has moved sufficiently into another part of the extraction site.

Reclamation activities shall progress on a phased basis, that is, prior to opening additional mining area, an exhausted mining area of equal or larger area shall be reclaimed.

- a. The peaks and depressions of the area shall be graded and backfilled to a surface which result in a gently rolling topography and substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall.
- b. All banks and slopes shall be left in accordance with the reclamation plan submitted with the permit application.
- c. Reclaimed areas shall be surfaced with a soil quality at least equal to the topsoil which existed prior to the mining operation. Such required topsoil shall be planted with

legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion.

- d. Excavations completed to a water producing depth need not be backfilled if the banks are sloped to the waterline.
- e. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which excavation operations have been conducted. The finished plan shall restore the excavation site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after excavation operations cease.
- f. After the applicant has completed the reclamation project, he shall notify the County. Upon notification, the Land and Resource Management Director shall inspect the site to determine if it is in accordance with the approved reclamation plan. If the site is not in accordance with the reclamation plan, the County shall notify the applicant of its deficiencies and the applicant shall correct the deficiencies. If the site is in accordance with the plan, the County shall issue a letter of acceptance of the site to the applicant.

8. Temporary Mining Permit.

The temporary use of real estate property for uses customarily incidental to the construction of public roads and bridges may be allowed upon approval of a temporary mining operation permit by the Douglas County Land and Resource Management Director. Violations of the provisions of the temporary mining operation permit shall be cause for revocation or refusal to extend duration of such permit and in such event the permittee shall be given a hearing to show cause why such permit should not be revoked or refused. Notice of the time, place, and purpose of such hearing shall be in writing.

A temporary mining operation is a permitted use within the Agricultural District by permit, providing the following criteria and provisions are complied with:

- a. The applicant shall specify the volume of material intended to be excavated or processed for specified construction.
- b. The applicant shall file with the Director of Land and Resource Management a plan. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, maintenance of haul roads, anticipated vegetative and topographic alterations along with any actions that will be taken to minimize and/or mitigate adverse impact to the area.
- c. All temporary mining permits issued shall be valid for only the duration of the particular construction project, not to exceed one hundred eighty (180) days. One extension, not to exceed ninety (90) days in the subsequent construction season, may be granted by the Director of the Land and Resource Management.

- d. A temporary hot mix and/or concrete plant may be allowed in conjunction with the temporary mining operation.
- e. The operator shall provide traffic control devices in the area proximate to the operation as necessary.
- f. Processing machinery must be located consistent with setback standards for structures.
- g. The applicant shall file with the Director of Land and Resource Management a reclamation plan.

9. Concrete and Bituminous Storage/Recycling Facility Permit.

Concrete and bituminous material resulting from, but not limited to, the demolition, or construction of, buildings, roads, and other manmade structures (hereafter "recyclable demolition materials") may be stored for recycling purposes at sites other than an MPCA permitted demolition landfill, for a period of up to two (2) years, subject to annual review, once the site has been approved by the Minnesota Pollution Control Agency, if applicable, the Douglas County Planning Advisory Commission, and the Douglas County Board of Commissioners. This storage/recycling facility shall be subject to the following requirements:

- a. A conditional use permit shall be required prior to the depositing of any recyclable demolition materials at the proposed site.
- b. A conditional use permit to allow a concrete and bituminous storage/recycling facility may only be granted in conjunction with permitted ready mix plants, permitted mining operations, and/or permitted hot mix plants.
- c. All unprocessed demolition recyclable material accumulated onsite during the permitted two (2) year storage timeframe shall be recycled or removed and deposited in an approved demolition landfill or other approved site within the subsequent twelve (12) month period. The responsibility for this removal shall rest with the party that originally was granted the permit for said site. The Douglas County Land and Resource Managements Department shall be notified upon completion of recycling.
- d. All concrete stockpiles shall be screened from public view and shall maintain a neat, piled appearance until such time as they are recycled or removed from site.
- e. The permittee shall provide to Douglas County a bond for one hundred thousand dollars (\$100,000), conditioned upon satisfactory recycling or upon removal and disposal of recyclable demolition material in the event of permittees' unwillingness or inability to recycle or to remove and dispose of such material.
- f. Each site shall be subject to an annual inspection to assure conformance with Section V., I.

- g. Permitted concrete and bituminous storage/recycling facilities shall be subject to an annual administrative review by the Director of Land and Resource Management. This review shall not require payment of a fee.

J. Accessory Building

To provide a higher development standard and to control the size and number of accessory buildings in a residential setting. This section shall be applicable to all parcels of land within Residential or Residential Shoreland Districts that contain five (5) acres or less.

1. General Provisions.

- a. No detached accessory building shall be utilized as a residence or for human residential habitation.
- b. Semi-enclosed or roofed structures, such as lean-tos, gazebos, screen porches, or other similar structures, shall be considered accessory buildings or part thereof for the purposes of this section.
- c. A garage not more than 1,600 sq. ft. shall be considered an integral part of a dwelling, and not an accessory building or part thereof, if it is attached to the dwelling or is connected to it by a covered passageway. Up to 300 additional sq. ft. may be included as part of an attached garage but the sq. ft. exceeding 1,600 shall be subtracted from the allowable amount of accessory building in the table below.
- d. Unpainted galvanized surfaces shall be prohibited on all accessory buildings.
- e. In shoreland areas only:
 - (1.) No detached accessory building shall be over one story in height. For the purposes of this requirement, at a minimum, any area with a floor truss is defined as a story. No detached accessory building shall have a basement or other sub-grade level in addition to a main floor level.
 - (2.) Dormers within the roof of a detached accessory building shall not exceed three (3) feet in width and there shall not be more than three (3) dormers per side of the roof.
 - (3.) There shall not be any direct exterior access to or from the attic or other upper level storage area of a detached accessory building.
 - (4.) Attic or other storage areas within the rafters of a roof shall be accessed only by attic ladders or pull-down stairways if the storage areas is fully separated from the main level. This requirement shall not apply to lofted or other storage areas that are open to the main level.

f. In non-shoreland areas:

(1.) A detached accessory building may have a second level provided that such second level is contained completely within the roof rafters.

2. Dimensional Limits

The maximum dimensions of detached accessory buildings shall be no greater than as listed in the following table:

Lot Size:	Maximum footprint (individually or combined):	Maximum sidewall height:	Maximum roof pitch:		Maximum number per parcel:
			Shoreland	Non-Shoreland	
0 - 60,000 sq. ft.	1,500 sq. ft.	12 feet*	6/12	No limit**	2
60,001 sq. ft. – 2.5 acres	2,400 sq. ft.	14 feet*	6/12	No limit**	3
2.51 – 5 acres	3,200 sq. ft.	16 feet*	8/12	No limit**	4
Greater than 5 acres	No limit**	No limit**	No limit**	No limit**	No limit**

* For roof styles other than gable roofs, the peak of the roof shall not be greater in height than what would be achieved with the highest allowable roof pitch and sidewall in the table above.

**Subject to other applicable ordinance limitations, such as overall height limits and impervious coverage limits.

K. Recreational Equipment (Recreational Vehicle)

To provide standards for recreational equipment utilized as temporary living quarters during recreational/vacation or other activities without the infringement upon and/or depreciation of neighborhood or adjacent properties.

The parking of uninhabited recreational equipment for strictly storage purposes is allowed and is subject to the general provisions of this subsection.

The parking of recreational equipment by a guest on the property of a permanent dwelling shall be allowed for a period not to exceed thirty (30) consecutive days and is subject to the general provisions within K., 2., a, (2.) – (5.) of this subsection.

1. This section applies to the following types of recreational equipment:

- a. Travel Trailer - A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer.

- b. Pick Up Coach - A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
- c. Motor Home - A portable, temporary structure to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
- d. Camping Trailer - A folding structure, mounted on wheels and designed for travel, recreation and vacation uses.
- e. Slip-In Campers - A structure designed to be mounted into a pickup truck in the pickup box, either by bolting through the floor of the pickup box or firmly clamping to the side of the pickup box.
- f. Park Trailers - A structure not exceeding eight and one-half (8.5) feet in width but which is no larger than four hundred (400) square feet when the collapsible components are fully extended or at maximum horizontal width that is licensed for over the road and that is used for temporary living quarters except that in planned unit developments only, the directives in (1.), below, shall control.

(1.) In planned unit developments only, park trailers or park models may exceed eight and one-half (8.5) feet in width and need not be licensed for over the road but must contain no more than four hundred (400) square feet on the main level when the collapsible components are fully extended, must be no greater than fifteen (15) feet in height from the ground to the peak of the roof and must be used as temporary living quarters only.

2. General Provisions.

- a. The following criteria for recreational equipment shall apply to all applicable zoning districts:
 - (1.) Only one (1) recreational equipment unit shall be allowed per lot.
 - (2.) Recreational equipment shall maintain minimum building setbacks as required by Ordinance for the applicable zoning district.
 - (3.) Recreational equipment shall comply with the sanitation standards set forth in this Ordinance.
 - (4.) Recreational equipment shall display and maintain the current year and class of vehicle license in accordance with State regulations.
 - (5.) All tires necessary for safe highway transport must remain mounted and inflated at all times.

- b. Section V., F., 1., does not apply to this subsection regarding recreational equipment and all provisions in this subsection are in full force and effect thirty (30) days from the date of the adoption of this Ordinance by the Douglas County Board of Commissioners.

L. Additional Provisions Within the Residential Shoreland District

1. Design Criteria for Structures.

a. High water elevations.

(1.) Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(a.) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher.

(b.) For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three (3) approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with the Ordinance governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

b. Stairways, lifts, and landings.

(1.) 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 require a shoreland alteration permit and must meet the following design requirements:

(a.) Stairways and lifts must not exceed four (4) feet in width on residential lots, there is only to be one (1) set of steps for access. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments.

(b.) Landings for stairways and lifts on residential lots must not exceed 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, and planned unit developments.

- (c.) Landings for stairways and lifts shall be allowed no more than one (1) landing per six (6) vertical feet.
 - (d.) Canopies or roofs are not allowed on stairways, lifts, or landings.
 - (e.) 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.
 - (f.) 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.
 - (g.) 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 sub-items (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- c. 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.
 - d. Steep slopes. The Director of Land and Resource Management 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.

2. Alterations within the Shoreland.

- a. 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.
- (1.) Removal or alteration of vegetation is allowed with a shoreland alteration permit and is subject to the following standards:
- (a.) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas 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.

- (b.) 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, beach and watercraft access areas. This limited clearing cannot exceed twenty-five (25) feet or twenty-five percent (25%) of the shoreline frontage, whichever is the lesser of the two, provided that:
 - i. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
 - ii. Along rivers, existing shading of water surfaces is preserved.
 - iii. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- (2.) Public roads and parking areas are regulated by Section 3., below.
- (3.) No excavation for walkout basements shall be allowed within a bluff impact zone.
- (4.) A shoreland alteration permit shall be required for:
 - (a.) The movement of less than ten (10) cubic yards of material on steep slopes or within shore and/or bluff impact zones, if the Department of Land and Resource Management determines that the potential for erosion exists.
 - (b.) The movement of more than fifty (50) cubic yards of material located outside of steep slopes and shore and/or bluff impact zones unless the Director of Land and Resource Management determines that there is a potential for erosion necessitating a conditional use permit.
 - (c.) Any alteration with erosion potential, as determined by the Director of Land and Resource Management.
- (5.) In addition to the above, a shoreland alteration permit shall also be required for all of the following, within the shore impact zones, and shall be done in accordance with the applicable restrictions.
 - (a.) Ice ridge removal - maximum width not to exceed ten (10) feet, maximum height not to exceed two (2) feet.
 - (b.) Sand beach, or patio or combination - maximum size of two hundred (200) square feet. The retaining wall necessary to retain the rear wall not to exceed three (3) feet in height. The cut must be a minimum of twelve (12) inches above the ordinary high water level. The sand must be washed and cleaned and free of pollutants and nutrients.

(c.) Retaining walls - may be allowed where there is a demonstrated need, the design is consistent with the existing uses in the area, and is not an aesthetic intrusion upon the land. The height of new retaining walls should not exceed three (3) feet in height, some existing walls are higher than three (3) feet and these may be reconstructed with a shoreland alteration permit. If greater heights are needed for new retaining walls they may be granted with a conditional use permit.

- i. Within steep slopes, bluff and/or shore impact zones retaining wall construction may be allowed where erosion problems preclude the use of vegetation or natural rock.
- ii. The repair and reconstruction of existing walls may be allowed subject to review by the Land and Resource Management Department.

(d.) Permanent docks, piers, and boardwalks – may be allowed, and if destroyed, can only be repaired or replaced one (1) time, thereafter a seasonal dock must be used.

(6.) A conditional use permit shall be required for:

- (a.) The movement of more than ten (10) cubic yards of material on a steep slope or within a shore or bluff impact zone.
- (b.) The movement of more than fifty (50) cubic yards of material located outside of steep slopes and shore and/or bluff impact zones, if the Department of Land and Resource Management determines that the potential for erosion exists.
- (c.) Any alteration with erosion potential, as determined by the Director of Land and Resource Management.

(7.) Shoreland alteration permit: A shoreland alteration permit shall be issued upon the order of the Department of Land and Resource Management.

- (a.) Application for a shoreland alteration permit shall be accompanied by a fee designated by the appropriate fee schedule, shall be on a form prescribed by the Land and Resource Management Department and may require an erosion control plan as specified in (9.), below.
- (b.) No alteration or excavation shall be undertaken prior to the issuance of the permit. Such permit shall be posted in a conspicuous location and shall be visible from the water.
- (c.) The permit shall require that the alteration or excavation be conducted in compliance with the restrictions and requirements of this Ordinance. The Land and Resource Management Department may establish restrictions to govern the

alteration/excavation actively consistent with the provisions of the Ordinance. The Department may require that an applicant submit an erosion control plan. The special restrictions shall be set forth in the permit and shall be binding upon the land owner.

(8.) Application for a conditional use permit as required by 2., (6.) above, shall be accompanied by a fee designated by the appropriate fee schedule, shall be on a form prescribed by the Land and Resource Management Department and shall include an erosion control plan as specified in Section (9.), below.

(9.) An erosion control plan shall include at least the following:

(a.) A location map drawn to a scale of not less than two hundred (200) feet to one (1) inch showing the relationship of the site to its general surroundings.

(b.) A plan of the site drawn to an appropriate scale showing:

- i. The boundary lines of the site on which the work is to be performed, including the approximate acreage of the site.
- ii. Existing topography including, but not limited to, existing streams, water bodies, wetlands, structures, road and vegetative cover of the site and on land adjacent to the site.
- iii. Existing contours with intervals of not more than ten (10) feet where the slope is twenty percent (20%) or greater, and not more than five (5) feet where the slope is from ten percent (10%) to twenty percent (20%) and not more than two (2) feet where the slope is less than ten percent (10%). In any event, the drainage pattern will be indicated.
- iv. Proposed improvements of the site, including present development and future use, if known, proposed changes to the land surface and vegetative cover, and areas of cuts and fills.
- v. A storm water removal system, including culverts, piping, ditches, sediment basins, diversions, or other devices, any non-vegetative protection or support including paving, rip-rap, walls or other structures or surfaces, any vegetative measures in connection with, or as part of, the proposed work.
- vi. Title, scale, north arrow, date and name of person preparing the plan.
- vii. A timing schedule and sequence of operations, stating the expected starting and completion dates of the development sequence.
- viii. The estimated time of exposure of each area prior to the completion of the effective erosion and sedimentation control measures and other related data

such as seeding mixtures and rates, types of sod, seed bed preparation, lime and fertilizer application and mulching.

ix. A general description of the predominant soil types on the site.

(10.) The following considerations and conditions must be adhered to during the issuance of construction permits, land use permits, grading and filling permits, shoreland alteration permits, conditional use permits, variances and subdivision approvals:

(a.) Grading or filling in any type 1, 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine if allowable under the Wetland Conservation Act and how extensively the proposed activity would affect the following functional qualities of the wetland.*

i. Sediment and pollutant trapping and retention.

ii. Storage of surface runoff to prevent or reduce flood damage.

iii. Fish and wildlife habitat.

iv. Recreational use.

v. Shoreline or bank stabilization.

vi. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, Soil and Water Conservation Districts, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

(b.) Special Wetland Provisions for Natural Environment Lakes. Within one thousand (1,000) feet of an NES lake, no filling of Type 3-8 wetlands is allowed. In addition, within one thousand (1,000) feet of an NES lake, Type 1 and Type 2 wetlands may be filled only for the purpose of establishing or maintaining infrastructure.

(c.) 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.

(d.) 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.

- (e.) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
 - (f.) 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 Soil Conservation Service.
 - (g.) Fill or excavated material must not be placed in a manner that creates an unstable slope.
 - (h.) 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.
 - (i.) Fill or excavated material must not be placed in bluff impact zones.
 - (j.) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 105.42.
 - (k.) 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.
 - (l.) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is allowed if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within five (5) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
- (11.) Application of fertilizer, herbicides, pesticides, animal wastes or other chemicals within shorelands must be done in such a way as to eliminate impact on the shore impact zone of public water by the use of earth or vegetation. Use of fertilizer containing phosphorus is prohibited within fifty (50) feet of the ordinary high water level of a public water.
- (12.) Burning shall be prohibited within one hundred (100) feet of the ordinary high water level of a general development and recreational development lake with the following exceptions:
- (a.) A controlled burn of native or restored natural vegetation for the purpose of management and weed control to promote the health of the shoreline vegetation. A plan for the management burn and an application for a shoreland alteration permit shall be submitted to the Director. No such burn shall be completed without a valid shoreland alteration permit and any other applicable permits (MN DNR open burning permit) from state or local agencies.

- (b.) A wood burning campfire less than three feet in diameter, designed to enclose ash for removal.
 - (c.) Agricultural zoned lands.
 - b. 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.
- 3. Placement and Design of Roads, Driveways, and Parking Areas.
 - a. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
 - b. 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.
 - c. Public watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetation screening and erosion control conditions of this sub-part are met.
- 4. Storm Water Management.
 - a. The following general and specific standards shall apply:
 - (1.) General standards.
 - (a.) 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.
 - (b.) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
 - (c.) When development density, topography 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 man-made materials and facilities.

- (d.) Landowners may only drain surface water upon neighboring land if they act in good faith and;
 - i. There is a reasonable necessity for the drainage;
 - ii. Care is taken to avoid unnecessary injury to the neighboring land;
 - iii. The utility or benefit accruing to the drained land outweighs the gravity of the harm resulting to the burdened land; and
 - iv. The drainage is accomplished by reasonably improving and aiding the natural drainage system, or if, in the absence of a practical natural drain, a reasonable and feasible artificial drainage system is adopted.
- (2.) Specific standards.
- (a.) Impervious surface coverage of lots must not exceed twenty-five (25) percent of the lot area or twenty (20) percent of the lot area in Natural Environment Shoreland Zoning. For the purposes of this section, twenty-five (25) percent of the total area covered by pervious paver systems designed to allow the infiltration of water between pavers may be considered pervious by conditional use permit provided that:
 - i. The pervious pavement system shall be designed and certified by a registered engineer or landscape architect and installed by someone qualified in the particular system used, or the installation shall be overseen by a product representative to ensure its proper long-term function;
 - ii. The pervious pavement designer shall include maintenance instructions to the property owner along with a maintenance schedule, with a copy to the Land and Resource Office to be filed along with the permit.
 - (b.) When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
 - (c.) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(d.) Impervious surface replacement.

i. Purpose.

The purpose of the regulations in this subsection is to prevent excessive amount of runoff that will be generated during a rainstorm by an enlarged impervious area. Such excessive runoff causes erosion and transport of pollutants to public waters thereby degrading water quality. Existing properties exceeding the standards for impervious surface coverage present a distinct management challenge from that of newly developed properties and there is a need to establish clear and consistent guidelines for how re-development of these lots may occur.

ii. Standards.

Parcels that exceed the maximum allowed impervious surface may construct additional impervious surfaces without a variance or conditional use permit if the proposed new impervious surface meets all setback, height and other regulations of this Ordinance and if one of the two following conditions are met:

- a). The applicant removes existing impervious surfaces at a ratio of one-and one-half (1.5) square feet removed for every one (1) square foot added and restores these areas to a permeable surface.
 - i.) Permeable pavement systems are encouraged in the management of sites currently over the impervious surface limit and shall be credited as twenty-five (25) percent pervious for these sites when installed according to the requirements of iii., below. Applicants are encouraged to replace existing impervious surfaces with natural vegetation at the one-and-one-half to one (1.5:1) ratio listed above, however, permeable pavement systems may also be used. In these cases, they are to replace existing impervious surfaces at a ratio of at least four (4) square feet converted for every one (1) square foot of new impervious surface being added.
- b). The applicant removes existing impervious surfaces at a one-to-one (1:1) ratio and restores those areas to a permeable surface and, in addition, submits a comprehensive stormwater management plan that emphasizes infiltration and onsite retention of stormwater for at least the two-year, 24-hour storm event, through a combination of methods including buffer strips, swales, rainwater gardens, permeable pavement systems and other low impact development methods. The stormwater management plan must be designed by a registered engineer or landscape architect and installed as designed by a qualified professional.

- i.) Permeable pavement systems may be considered as one hundred (100%) percent pervious when submitted as part of a storm water management plan consistent with this section.

iii. Specific Requirements.

The applicant must provide the following evidence, in conjunction with meeting one of the two standards listed in (d.), ii. above:

- a). A survey shall be submitted showing calculations of the exact dimensions of all existing impervious surfaces and of the lot before and after completion of the project. This survey must be submitted and approved by the Land and Resource Director before any work may begin on the project;
- b). In replacing existing impervious surfaces with surfaces designed to be permeable or porous, the applicant must give priority to replacing those surfaces closest to the lake or those surfaces where the replacement is most likely to improve storm water management;
- c). No pervious or porous pavement systems shall be allowed in a bluff impact zone or shore impact zone unless specifically approved otherwise by the Land and Resource Director when restoration to natural vegetation would not be practical or advised by a qualified engineer. These areas shall be maintained or restored to natural vegetative buffer whenever feasible;
- d). A pervious pavement system shall be designed and certified by a registered engineer or landscape architect and installed by someone qualified in the particular system used, or the installation shall be overseen by a product representative to ensure proper long-term function;
- e). A pervious pavement system shall be set back from structures having basements, septic system leach fields, steep slopes and wells, at least ten (10) feet, unless otherwise designed by a registered engineer so as to prevent impacting these features;
- f). A pervious pavement system design shall include maintenance instructions to the property owner, along with a maintenance schedule, with a copy to the Land and Resource Office to be filed along with the permit;
- g). All best management practices must be compatible with local storm water management plans and NPDES Phase II stormwater permits, where required; and

- h). If, in the removal of existing impervious surfaces, the total lot coverage falls below the maximum coverage allowed by this Ordinance, the applicant must thereafter conform to the standards of this Ordinance.

5. Special Provisions for Agricultural Uses.

- a. Agricultural uses within shorelands existing at time of adoption of this Ordinance may continue, provided the following standards are met:

- (1.) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan that includes alternative riparian water quality practices based on the Natural Resources Conservation Service field office technical guide (FOTG), practices approved by the Board of Water and Soil Resources (BWSR), or practices based on local conditions approved by the local soil and water conservation district that are consistent with the FOTG. The shore impact zone for parcels with permitted agricultural land uses is an area with a 50-ft. width as measured from the ordinary high water level if identified, or the top or crown of bank, or normal water level as provided in Minnesota Statutes, Section 103F.48, Subd. 3(c), whichever is applicable.

6. Water Supply.

- a. Water supply.

- (1.) 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.

7. Standards for Commercial, Public and Semi-public Uses.

- a. Surface water-oriented commercial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels with frontage on public waters. 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. Those with water-oriented needs must meet the following standards:

- (1.) In addition to meeting impervious coverage limits, setbacks, and other zoning standards set forth in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

- (2.) 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.

(3.) 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:

(a.) 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.

(b.) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

(c.) 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.

8. Guest Cottage.

a. One guest cottage may be allowed with a conditional use permit on a riparian lot only, meeting or exceeding the following lot area and width dimensions and conditions set forth in this section.

	Lot Area Requirements and Regulations	
	Unsewered Area Width <u>Square Feet/Feet</u>	Sewered Area Width <u>Square Feet/Feet</u>
(1.) Natural Environment Lake	120,000/300	70,000/225
(2.) Recreational Development Lake	80,000/225	50,000/150
(3.) General Development Lake	40,000/180	26,000/135
(4.) Transition River	90,000/375	90,000/375
(5.) Agricultural River	60,000/225	60,000/225
(6.) Tributary River	45,000/150	35,000/115

b. A guest cottage must meet the following standards:

(1.) The guest cottage must be located within the smallest lot area that could be created including the principal dwelling unit.

- (2.)The guest cottage must not cover more than seven hundred (700) square feet of land surface and must not exceed fifteen (15) feet in height from ground to peak.
- (3.)The guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

9. Controlled Access Lots.

- a. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions may be allowed by a conditional use permit and must meet or exceed the following standards.

- (1.)They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
- (2.)If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements	
Ratio of Lake Size to Shore Length <u>(acres/mile)</u>	Required increase in frontage <u>(percent)</u>
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- (3.)They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- (4.)Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations.

They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

M. Bed and Breakfast Facilities

1. Facilities used for the purposes of providing lodging with breakfast being served to transient guests for compensation may be allowed by conditional use permit and shall meet or exceed the following standards.
 - a. The lot must meet the minimum lot size standard of the applicable zone.
 - b. The property owner, manager, or operator must reside in the facility.
 - c. A maximum of five (5) guest rooms are allowed for each facility.
 - d. The occupants shall include registered guests, the owner, manager or operator, and not more than two (2) employees.
 - e. All guest rooms must be contained in the principle building.
 - f. Dining facilities are not open to the public but limited to residents, employees, and registered guests.
 - g. No cooking facilities shall be allowed in the guest rooms.
 - h. The facility must be inspected by the State Fire Marshal.
 - i. A license from the Health Department, obtained from the Pope/Douglas Environmental Health Department, as a food, beverage and lodging facility must be maintained in good standing.
 - j. Signage is limited to one wall or pylon sign not exceeding eight (8) square feet in size and hooded if lighted.
 - k. Any exterior lighting must be concealed, hooded, or screened from adjoining properties.
 - l. The parking area must be screened from adjacent properties.
 - m. The facility shall have at least one (1) parking stall per guest room, one (1) parking stall per employee and two (2) parking stalls for the owner, manager, or operator.

N. Fish House and Dark House Storage

1. A fish house and/or a dark house is allowed to be stored on a tract of land without obtaining a land use permit. For the purposes of definition, a fish house and/or a dark house is not considered to be an accessory building. The following standards shall apply:
 - a. A fish house and/or dark house shall maintain minimum building setbacks as required by this Ordinance.
 - b. A fish house and/or dark house shall maintain licensing requirements set forth by the Minnesota Department of Natural Resources Fishing Regulations.

O. Land Application of Petroleum Contaminated Soils

1. General Requirements.
 - a. The Minnesota Pollution Control Agency (MPCA) requires that excavated petroleum contaminated soil be treated or disposed of in an environmentally safe manner. Incorporation of petroleum contaminated soil into the top six (6) inches of native soil can be an effective treatment option. This method takes advantage of naturally occurring soil microorganisms to biodegrade petroleum. Some volatilization of petroleum hydrocarbons does result.
 - b. This Ordinance provision outlines suitable site and soil characteristics, land application procedures, soil sampling requirements, management, reporting, and necessary approval requirements for land application sites receiving a single, onetime application of petroleum contaminated soil. These requirements are in addition to all applicable Federal and State regulations. It is the applicant's responsibility to meet these requirements prior to applying for a conditional use permit pursuant to Section VII., G., for any land application of petroleum contaminated soil in Douglas County.
2. Site and Soil Characteristics at Land Application Site.
 - a. General
 - (1.) Only land zoned Agricultural District (A) zone may be used for land application of petroleum contaminated soil.
 - (2.) Land application of petroleum contaminated soil is prohibited within a floodplain. A floodplain is the area adjoining a watercourse which has been or may be covered by the one hundred (100)-year flood.
 - (3.) The land at the proposed application site must be tillable.
 - (4.) A land application site is an area which accepts no more than one thousand, five hundred (1,500) cubic yards per one-quarter (1/4) section of land. In addition, a land

application sit must not be closer than one-quarter (1/4) mile to any other land application site.

b. Specific.

The following site and soil characteristics will be used to evaluate the suitability for land application sites. Published soil survey information, available through the Douglas County Soil Conservation Office, provides a reference regarding some of the necessary site information such as site slope, depth to ground water, and soil type. Soil boring or trenching may be required to evaluate the proposed land application site.

- (1.) Site Slope: No portion of the land application site may have a slope greater than four percent (4%).
- (2.) Minimum distance to an intermittent stream, drainage ditch, or tile drain inlet or the ordinary high water level of a stream, river, pond, wetland or flowage: five hundred (500) feet.
- (3.) Minimum distance to sinkhole, exposed bedrock, or known underground cave: two hundred (200) feet.
- (4.) Minimum distance to a private water supply well: five hundred (500) feet.
- (5.) Minimum distance to any public water supply well: one thousand (1,000) feet.
- (6.) Minimum distance to a place of habitation: two hundred (200) feet.
- (7.) Minimum distance to a residential development or recreational area: five hundred (500) feet.
- (8.) Minimum distance to property lines: two hundred (200) feet.
- (9.) Minimum depth to seasonal high water table or bedrock: four (4) feet for most native mineral soils with permeability of size (6) inches or less per hour.
- (10.) Minimum distance to a tile line: one hundred (100) feet.
- (11.) Filter Strips. Douglas County Board of Commissioners may require that land treatment site have a down gradient filter strip (i.e., a strip or area of perennial vegetation) or berm.
- (12.) Run-on prevention: A land application site must have adequate controls to minimize run-on. For sites in which a potential for run-on exists, the options for run-on prevention include construction of a diversion up gradient of the site or cropping of the land up gradient of the site prior to soil spreading. A diversion is a channel constructed across the slope with a supporting ridge on the lower side.

3. Contaminated Soil Characteristics and Sampling Requirements.

- a. Soil samples must be taken to evaluate and document the contamination levels in the soil to be treated. Samples must either be taken from the stockpile generated during excavation or from soil borings conducted in locations representative of the soil contaminated by the release.

If samples are from borings, the samples must be collected from portions of the borings that represent soil that will be excavated. For analysis parameters requiring grab samples (not composite samples), a minimum of two (2) grab samples must be collected from a minimum of two (2) different soil borings. The number of samples required are as follows based on cubic yards of soil:

<u>Cubic Yards</u>	<u>Number of Samples</u>
0 - 50	1
51 - 501	2
501 - 1,000	3
1,001 - 2,000	4
2,001 - 4,000	5
Each additional 2,000	1 additional sample

Sampling must also follow procedures in Minnesota Pollution Control Agency Fact Sheet #13 "Excavation of Petroleum Contaminated Soil."

- b. No contaminated soil containing polychlorinated-biphenyl (PCB) may be land applied.
4. Land Application Procedure. The following procedures for land application of petroleum contaminated soil must be followed.
- a. Climatic conditions.
 - (1.) Petroleum contaminated soil may only be applied when the land is not frozen, is free of snow and ponded water, or is otherwise tillable.
 - b. Application period.
 - (1.) Petroleum contaminated soil may not be applied before June 1 or after September 15.
 - c. Site markings.
 - (1.) The proposed land application site shall be marked with stakes and/flags. The site shall be easily identifiable and the surveyor will be able to reset stakes if necessary.

- d. Permitted application thickness.
 - (1.) In no case shall application thickness exceed two (2) inches or two hundred seventy (270) cubic yards per acre.
- e. Prohibition of mixing or repeated use.
 - (1.) Petroleum contaminated soil originating from separate releases must not be combined or spread on the same site. Plots within an approved land application site previously used for land treatment of petroleum contaminated soil may not receive repeat application of petroleum contaminated soil. The Douglas County Zoning Director shall keep records of all land application sites and applications.
- f. Removal of large rocks and debris.
 - (1.) Rocks larger than four (4) inches in diameter and debris must be removed from petroleum contaminated soil prior to incorporation into the native soil. Debris includes pieces of plastic, bricks, metal, and wood, or other non-organic materials.
- g. Soil testing.
 - (1.) All contaminated soil must be tested prior to land application and issuance of a permit. This testing must be done by a certified soil testing laboratory. All samples must include analysis of the following substances: TPH ppm, benzene ppm, ethyl benzene ppm, toluene ppm, xylene ppm, MTBE ppm and lead ppm.
- h. Fertilizer application.
 - (1.) An evaluation to determine the need for nitrogen and/or phosphorus and potassium addition must be done for soil with an average total petroleum hydrocarbon (TPH) concentration of two thousand (2,000) ppm or greater spread two (2) inches thick. This evaluation does not require that specific nutrients be tested in the native soil.
- i. Application spreading and incorporation of petroleum contaminated soil. Petroleum contaminated soil must be spread uniformly. Petroleum contaminated soil must be incorporated into the upper four (4) to six (6) inches of native soil as soon as feasible, but in no event longer than twenty-four (24) hours after spreading. In order to minimize soil moisture loss and volatile loss of the petroleum contaminants, initial incorporation must be conducted only to the degree that most soil clods are broken up and petroleum contaminated soil and native soil mixing occurs. For most land treatment applications, one (1) or two (2) passes with a tillage implement will result in adequate incorporation during a single tillage cycle.

j. Tillage.

(1.)Unless the site has been seeded to a crop, tillage of the soil following the initial incorporation must be done in monthly cycles, until all soil monitoring samples are less than ten (10) ppm TPH. Tillage of the soil must be delayed until the soil moisture is increased if the soil lacks moisture such that tillage would cause wind erosion or decreased microbial activity.

k. Cropping.

(1.)Following the initial incorporation of petroleum contaminated soil into the native soil, the site may be seeded to a crop. No root crops or crops for direct human consumption may be grown during the period of time when soil monitoring is performed. If seeding is delayed, the tillage schedule in j., above, must be followed until seeding can be done.

5. Monitoring and Reporting Requirements.

a. Monitoring samples.

(1.)Periodic soil sampling following soil spreading, must be done for each area of the land treatment site. The number of composite soil samples for monitoring is the same as the number of soil samples required for characterizing the soil prior to treatment.

(2.)Monitoring in the year of spreading must be done at the times specified below, until all soil analytical results in a single sampling round are ten (10) ppm total petroleum hydrocarbons (TPH) or less.

<u>Soil Spreading Date</u>	<u>Soil Sampling in First Calendar Year</u>
Before July 1	Once in August and once in October
July 1 to September 15	Once in October
After September 15	None

(3.)Monitoring in subsequent years must continue for those plots in which all soil analytical results are ten (10) ppm TPH or more. Sampling must be done in June, August, and October.

(4.)A trained county representative must be present when monitoring samples are taken. The Town Board in which the site is located must be notified so a township representative may be present as desired.

6. Stockpiling contaminated soil.

a. Petroleum contaminated soil may be stockpiled at the site from which it is removed or at an approved land application site, only for that period of time from removal to the nearest authorized application date (June 1). All stockpiled soils must be stored on a water

impervious surface and all stockpiles must be covered with a waterproof cover. It will be the joint responsibility of the owner of the land upon which the soil is stored and the contractor responsible for stockpiling to notify the Director of Land and Resource Management of the existence of the stockpile. If the integrity of the cover is not maintained, the Director of the Douglas County Land and Resource Management Department, or his/her agent, shall provide the appropriate cover at the applicant's and contractor's expense.

7. Application process.

a. Applications.

A conditional use permit (CUP) is required before any petroleum contaminated soil may be land applied in Douglas County. The application form entitled, Douglas County Permit Application for the Single Application of Petroleum Contaminated Soil must be completed and submitted to the Douglas County Land and Resource Management office with the conditional use permit application.

These applications will be submitted to the Douglas County Planning Advisory Commission and the Douglas County Board of Commissioners in compliance with the conditional use process set out in Section VII., G., of this Ordinance. An applicant must also have the necessary approval of the applicable municipality or town as set out in e., below.

b. Bond and monitoring costs.

Before a conditional use permit for land application of petroleum contaminated soil will be approved by the Douglas County Board of Commissioners, the applicant (or the applicant's contractor, if different from the applicant), must post a Surety Bond or other form of financial assurance in an amount to be determined by the Douglas County Board of Commissioners to ensure that all work will be done in accordance with this Ordinance. The bond or other financial assurance, is to remain in force until such a time as the monitoring results indicate that the petroleum residues in the soil are less than ten (10) ppm and all road repairs required in c., below, are completed. Upon approval of the application and the posting of a surety bond, or other financial assurance, the applicant's contractor will be issued a permit allowing the movement of petroleum contaminated soils onto the site. The Douglas County Director of Land and Resource Management or his/her designee, will monitor the land application process, progress and results, with all monitoring costs to be assessed against the applicant.

c. Roadway repairs.

Any applicant who obtains approval of his/her conditional use permit for land application of petroleum contaminated soils shall be responsible, at the applicant's expense, for restoring to its original condition any roadway that is damaged as a result of hauling and other land application activities, and for utilizing roadway dust control measures.

d. Maps.

The applicant shall furnish with the application the following maps:

(1.) Map requirements. A map identifying the exact site proposed for the deposition of contaminated soil, and containing the following:

(a.) Location of all water courses, wetlands, water bodies, surface drainage, existing wells and drainage systems and buildings within one thousand (1,000) feet of the perimeter of the site (affected area).

(b.) A topographical map of the site containing two (2) foot contour elevations or grid elevations of the proposed site including a one hundred (100) foot area surrounding the proposed site.

(2.) Soils map and tests.

A soils map of the site and soil tests (soil borings) to minimum required depth.

e. Relationship to other Ordinances.

Enforcement. Any municipality or town within Douglas County that enacts a land application of petroleum contaminated soil Ordinance, pursuant to its statutory authority to enact land regulations for its jurisdiction, that is more restrictive than the provisions of this Douglas County Ordinance, must approve an application to land apply petroleum contaminated soil before an application can be submitted to Douglas County. If an application is ultimately approved, the municipality or town will be responsible for any necessary enforcement action unless the municipality or town contracts with Douglas County for enforcement services.

TABLE 1

GASOLINE CONTAMINATED SOIL

Average Total Petroleum Hydrocarbons (TPH) as Gasoline (p.p.m.)

Minimum organic matter	Permeability (inches per hour)	Minimum thickness of suitable soil <u>within treatment zone</u>		
		2 feet	3 feet	4 feet
2%	less than 6	NA	NA	1,000
	less than 0.6	NA	1,000	2,500
4%	less than 6	NA	1,000	2,500
	less than 0.6	1,000	2,500	5,000

TABLE 2
CONTAMINATED SOIL CHARACTERIZED AS FUEL OIL
Total Petroleum Hydrocarbons (TPH) as Fuel Oil (p.p.m.)

Minimum organic matter	Permeability (inches per hour)	Minimum thickness of suitable soil <u>within treatment zone</u>		
		2 feet	3 feet	4 feet
2%	less than 6	NA	NA	2,000
	less than 0.6	NA	2,000	5,000
4%	less than 6	NA	2,000	5,000
	less than 0.6	2,000	5,000	10,000

NOTE: In these tables, "NA" means that petroleum contaminated soil may be spread under the specified conditions; "minimum thickness of suitable soil" means the total soil thickness within the application zone having a permeability as listed in these tables. Petroleum concentrations are based on average total petroleum hydrocarbon (TPH) concentration in the soil in parts per million (p.p.m.).

P. Animal Feedlot Regulations

1. Policy and Intent.

An adequate supply of healthy livestock, poultry, and other animals is an essential component to the wellbeing of Douglas County citizens and the entire State of Minnesota. These domesticated animals provide us with a daily source of meat, milk, eggs, and fiber. The efficient, economic, and healthy production of these animals must be a concern to all consumers if we are to have a continued abundance of high quality, wholesome food and fiber at reasonable prices.

These regulations have been promulgated to reduce risk of pollution of our natural resources from feedlots.

These regulations address production sites. These regulations comply with the policy and purpose of the State of Minnesota statutes and rules regarding control of pollution. The goals of these regulations are to address economic and environmental needs as they specifically relate to necessary regulation of animal feedlots and to optimize the general welfare of the citizens of Douglas County.

2. Jurisdiction.

The provisions of these regulations shall apply to all animal feedlots in Douglas County.

3. Existing Feedlot Standards.

- a. Existing feedlots are exempt from the setback requirements listed in Table 1 of this section. Existing feedlots must follow all other provisions of the Douglas County Zoning Ordinance.

(1.) Expansions of feedlots located within the shoreland are prohibited.

4. New Feedlot Requirements.

a. A Certificate of Compliance and a Conditional Use Permit shall be required by Douglas County for all feedlots over fifty (50) animal units regardless of location.

b. All feedlot related Certificate of Compliance and Conditional Use permits shall include the following information:

(1.) A map or aerial photo showing the dimensions of the feedlot, showing all existing homes, buildings, lakes, ponds, water courses, wetlands, roads, wells, contour and surface water drainage within one thousand (1,000) feet of the feedlot.

(2.) A description of the geological conditions, soil types, and seasonal high-water table located within one thousand (1,000) feet of the feedlot.

(3.) A plan indicating operational procedure, the location and specifics of proposed animal waste facilities, and the quantity and type of effluent to be discharged from the site.

(4.) A plan for disposal of dead animals consistent with the Minnesota Board of Animal Health Regulations.

(5.) Verification that the proposed operation is in compliance with, or is in the actual process of coming into compliance with, all Minnesota Pollution Control Agency requirements.

(6.) Any other information deemed necessary by the Minnesota Pollution Control Agency, Director of Land and Resource Management Department, Planning Advisory Commission, NRCS, Department of Natural Resources or other agency.

c. New feedlots located within the shoreland are prohibited.

d. The following shall be the minimum setback requirements for new animal feedlots.

TABLE #1

New Manure Storage Structures and Animal Feedlot Setbacks		
	TIER 1 & TIER 2	TIER 3
Setbacks measured from:	50-999 AU	1000 - 2500 AU
Neighboring Residential Dwelling not owned by family or employee of animal feedlot	1000 feet	1/2 mile
Cities and Towns	1000 feet	1/2 miles
Churches, Schools, or FAA Approved Airports	1000 feet	1/2 mile
OHWL of Protected Waters and Protected Waters Wetlands	1/2 mile	1 mile
OHWL of Stream or River	500 feet	1000 feet
Property Lines	100 feet	1000 feet
R.O.W. of Federal, State, or County Highway or township road	100 feet	1000 feet
Wetland types 3, 4, and 5 that are not Protected Waters Wetlands	300 feet	300 feet
Floodplain	prohibited	prohibited

5. Feedlot setbacks and separations.

- a. No residential dwellings, not owned by a family member or employee of the feedlot operation, shall be built or placed within one thousand (1,000) feet of a Tier 1 or Tier 2 feedlot or within two (2) miles of a Tier 3 feedlot. Notwithstanding issues of ownership, no more than two residential dwellings shall be built or placed within one thousand (1,000) feet of a Tier 1 or Tier 2 feedlot or within two (2) miles of a Tier 3 feedlot.

6. Animal waste storage facilities.

- a. Animal liquid waste storage facilities.

(1.) All new liquid manure holding structures for animal waste shall have a minimum storage capacity of thirteen (13) months and shall meet the minimum construction standards required by the Minnesota Pollution Control Agency. All of these structures shall be in compliance with the Minnesota Pollution Control Agency requirements.

b. Animal waste earthen storage basins.

(1.) In addition to any other requirements imposed by the law, all animal waste earthen storage basins and lagoons shall be in compliance with the Minnesota Pollution Control Agency requirements. All plans for earthen storage basins and lagoons shall be prepared and approved by a registered professional engineer or NRCS job authority.

7. Manure transportation.

The owner or operator of an animal feedlot who spills manure on a public road shall be responsible for cleaning the roadway as soon as practical after a spill to ensure the safe passage of traffic. If the owner or operator of a feedlot does not clean the roadway in a timely manner, the County's Public Works Department may clean the roadway with their own equipment and assess the owner or operator for their services. If the assessment is not paid, the County Board of Commissioners may certify to the County Auditor by November 30 all unpaid, outstanding assessments, and a description of the lands against which the assessment arose. It shall be the duty of the County Auditor, upon order of the County Board of Commissioners, to extend the assessments with interest not to exceed the interest rate provided for in Minnesota Statutes, Section 279.03, Subd. 1, or successor statutes, upon the tax roles of the County for the taxes of the year in which the assessment is filed, into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real and/or personal property taxes in accordance with the provisions of the laws of the State of Minnesota. The assessment, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State of Minnesota.

8. Feedlot closure.

- a. The landowner, owner and operator of any feedlot shall be responsible for the ongoing management of manure and the final closure of the feedlot including the cleaning of buildings and the emptying and proper disposal of manure from all manure storage structures.
- b. The closure plan shall be completed in accordance with the Minnesota Pollution Control Agency's Guidelines for Closure.
- c. Landowners, individual feedlot owners, or operators or other business entities controlling, taking part in, or sharing in the profits from a feedlot will be liable for cleanup costs if the closure provisions of this Ordinance are not complied with.

9. Abandonment.

- a. Owners and operators of feedlots shall have joint liability for cleanup, closure, or remediation of abandoned feedlot sites.

- b. Cleanup costs after abandonment, if not otherwise paid, shall be assessed to the fee title holder.

Q. Wireless Telecommunication Towers and Antennae

1. Purpose.

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the County finds that these regulations are necessary in order to:

- a. Facilitate provision of wireless communications services to the residents and businesses of the county;
- b. Minimize adverse visual effects of towers through careful design and siting standards;
- c. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;
- d. Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community; and
- e. Minimize the adverse effects on aviation safety.

2. In making siting decisions for new towers, applicants should:

- a. Be sensitive to placement of towers near densely settled residential areas.
- b. Be aware that the location of these facilities in shoreland districts is not permitted.
- c. Select a site with a Crop Equivalency Rating (CER) of fifty (50) or less, see Douglas County Soil Survey.
- d. Select a site which will not adversely affect aviation safety, considering, amongst other things, the traffic zone within a five (5) mile radius of the Alexandria airport, the extended areas and clear zones from the approach end of each runway, and the various instrument landing and departure procedures .

3. Co-location requirements. All wireless telecommunication towers erected, constructed, or located within the County shall comply with the following requirements:

- a. Documentation must be provided showing the area to be served, including maps demonstrating size search rings for the antenna location. This documentation is to include a narrative describing a search ring of not less than a one (1) mile radius for the

requested site, clearly explaining why the site was selected, what existing structures were available, and why they are not suitable as locations or co-locations.

- b. Documentation must also be provided showing that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:

- (1.)The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by a qualified professional radio frequency (RF) engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost;

- (2.)The planned equipment would cause interference with other existing or planned equipment, at the tower or building as documented by a qualified professional radio frequency (RF) engineer, and the interference cannot be prevented at a reasonable cost;

- (3.)No existing or approved towers or commercial/industrial buildings within one (1) mile radius meet the radio frequency (RF) design criteria;

- (4.)Existing or approved towers and commercial/industrial buildings within a one (1) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified professional radio frequency (RF) engineer; or

- (5.)Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

- c. A statement showing that a good faith effort was made to co-locate on existing towers and structures within a one (1) mile radius, but an agreement could not be reached.

4. Standards for Telecommunication Towers.

- a. All telecommunication towers erected within Douglas County shall be freestanding towers. No guyed telecommunication towers will be allowed.

- b. The tower shall be setback a distance equal to the tower height from all property lines and said setback shall not cross a public right of way. All accessory structures shall be setback a minimum of fifty (50) feet from all side yard and rear yard property lines and one hundred (100) feet from all public right of ways.

- c. Proposed commercial wireless telecommunication service towers are to be designed, structurally, electrically, and in all respects to accommodate the applicant's antennas and comparable antennas for at least three additional users if the tower is over one hundred (100) feet in height, or for at least one additional user if the tower is less than one

hundred (100) feet in height. Towers must be designed to allow for future rearrangement of antennae upon the tower and to accept antennas mounted at varying height. An agreement shall be signed by the applicant and the property owner and shall be attached to, and become a part of the permit. Note that any prohibition of additional users on a tower will be considered a violation of the permit and County policy.

- d. All towers shall utilize 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. Metal towers shall be constructed of, or treated with, corrosive resistant materials.
- e. Towers and their antennae shall not be illuminated by artificial means, except for camouflage purposes, or the illumination is specifically required by the Federal Aviation Administration or other authority.
- f. All towers shall be reasonably protected against unauthorized climbing. The area around the base of the tower shall be enclosed by a fence with a minimum height of a six (6) foot chain link fence with a locked gate. A minimum of three (3) strands of barbed or razor wire shall be installed on top of the chain link fencing.
- g. No part of any tower or its appurtenances shall at any time extend across or over any part of the right of way, platted street, private road or sidewalk.
- h. No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by Federal, State, or local authorities.
- i. All obsolete or unused towers and accompanying accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the County Board of Commissioners. After the facilities are removed, the site shall be restored to its original or an improved state. Electronic equipment shall not be removed in advance of removal of obsolete or unused towers. Failure to remove the structure shall be cause for the County to remove the tower and associated equipment and assess the cost against the property for collection with the real estate taxes.
- j. Applicant must submit proof of liability and workers compensation insurance.
- k. Towers must be designed and inspected by a qualified and licensed professional engineer (at the applicant's expense). The towers and their antenna must conform to applicable state structural building standards and/or all other applicable reviewing agencies, including but not limited to electrical engineering methods and practices as specified in the National Electrical Code.
- l. Applicants must obtain Federal Communications Commission (FCC) licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed.

- m. A statement must be filed not more than thirty (30) days before the application is filed with the County showing that the applicant has notified the Federal Aviation Agency of the intent to file such application, further that the applicant has provided a copy of such application to the Federal Aviation Administration (FAA). No conditional use permits shall be granted prior to approval of the FAA.
 - n. Zoning permits shall be applied for and issued before any construction is started.
5. Minimum requirements for wireless telecommunication conditional use permit submittal shall include the following:
- a. A completed Douglas County conditional use permit application; such application is to be signed by the property owner and any lease agreements must be included with the application.
 - b. A site plan showing:
 - (1.)North arrow.
 - (2.)Graphic scale of the plan, not less than one (1) inch to twenty (20) feet.
 - (3.)Location and size of the proposed tower facility, support structures, accessory buildings and access driveways.
 - (4.)Vicinity map showing land uses and existing residences and businesses within one-half (.5) mile of the proposed tower.
 - (5.)Dimensions of the property (all property corners must be identified).
 - (6.)Setback distances from all property lines, roads and lakes.
 - (7.)Elevations.
 - (8.)Proposed locations for tower, fence, and accessory structures.
 - (9.)Topography and drainage.
 - c. Plans for fencing and a gate for around the tower to protect from unauthorized climbing.
 - d. Co-location information.
 - e. Documentation providing Federal Communications Commission (FCC) approval.
 - f. Documentation providing Federal Aviation Administration (FAA) approval (or application for approval) for said tower.

- g. A signed agreement between the property owner and applicant providing for the removal of the tower at the end of its use.

6. Conditions which preclude the issuance of a permit:

- a. No permit shall be issued if the FAA or the County finds that such proposed tower would pose a hazard, in any way, to air navigation.

7. Effect of Ordinance on existing towers and antennas:

Antenna and towers in existence as of the date of the adoption of this Ordinance, which do not conform to or comply with this Ordinance are subject to the following provisions:

- a. Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Ordinance.

8. Statement of Operation, Abandonment, and Removal.

- a. 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 the 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. If it is determined to be abandoned the County may contract for the removal of the obsolete tower and assess the fee title owner for the charges to be assessed against the property.

R. Erosion Control and Stormwater Management

1. Purpose and Intent.

The Douglas County Board of Commissioners finds that construction site erosion and uncontrolled storm water runoff from land disturbing and land development activities have significant adverse impacts upon regional water resources and the health, safety, and general welfare of the community, and diminish the public enjoyment and use of natural resources. The purpose of this section of the Ordinance is to set requirements for construction site erosion control and storm water management that will diminish threats to public health, safety, public and private property and natural resources of Douglas County.

This section is intended to regulate construction site erosion and storm water runoff to accomplish the following objectives:

- a. Promote local storm water management;

- b. Minimize sedimentation, water pollution from nutrients, heavy metals, chemical and petroleum products and other contaminants, flooding, and thermal impacts to the water resources of Douglas County;
- c. Promote infiltration and groundwater recharge;
- d. Protect functional values of natural water courses and wetlands;
- e. Provide a single, consistent set of performance standards for Douglas County; and
- f. Protect public and private property from damage resulting from runoff or erosion.

The Douglas County Board of Commissioners finds that effective sediment and storm water management depends on proper planning, design, and timely installation of conservation and management practices and their continuing maintenance.

2. Jurisdiction and Administration.

- a. This section of the Ordinance shall become effective on January 1, 2004, in unincorporated areas of Douglas County. Areas in the County under the jurisdiction of a Joint Powers Board, formed for orderly annexation purposes, are not included.
- b. Douglas County hereby adopts, by reference, the standards put forth in the Minnesota Pollution Control Agency's (MPCA) General Permit Authorization To Discharge Storm water Associated With Construction Activity Under The National Pollutant Discharge Elimination System Permit Program, also known as the NPDES Phase II Permit, along with any future amendments.
- c. Units of local government must notify Douglas County Land and Resource Management of land disturbing activities that require coverage under the NPDES Phase II Permit Program. A separate permit issued by Douglas County is not required.
- d. The Director of Land and Resource Management, in consultation with the Douglas County Environmental Analyst, shall be responsible for administration and enforcement of this Ordinance.
- e. Where the standards of this Ordinance differ or conflict with applicable local subdivision, zoning, shoreland zoning or other applicable local Ordinances or state regulations, the more restrictive standards shall apply.

3. Permit Coverage and Limitations.

- a. Standard Permit. A standard permit shall be required, and all construction site erosion control provisions of this permit shall apply, to land disturbing activities associated with construction activity and small construction activity, as defined below, in Douglas County.

(1.) Construction activity includes clearing, grading and excavation, that disturbs land of equal to or greater than five (5) acres and includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of sale or development or sale if the larger common plan will ultimately disturb five (5) acres or more.

(2.) Small construction activity includes clearing, grading, and excavation, that disturbs land of equal to or greater than one (1) acre, and includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres.

(3.) For drainage ditches, small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

(4.) The fee for this permit will be set by the Douglas County Commissioners.

4. Storm water Pollution Prevention Plan: Permits and Administration.

a. No activity meeting the requirements for either a standard or simplified permit shall occur and until a permit is issued by the Douglas County Land and Resource Management Department.

b. The applicant must provide the following when requesting a permit:

(1.) Completed application form;

(2.) Copy of the Storm Water Pollution Prevention Plan (SWPPP) prepared for the MPCA NPDES Phase II Permit Program;

(3.) Copies of permits or permit applications or approvals required by any other governmental entity, including documents sent to the state administered NPDES Phase II Permit program; and

(4.) A proposed timetable and schedule for completion and installation of all elements of approved erosion control and storm water management plans and a proposed schedule for completion of construction.

c. Appropriate fee as set forth in the Douglas County Fee Schedule.

5. Approval Process.

a. The Land and Resource Management Department shall verify that the permit application is complete. The Land and Resource Management Department shall review the plan(s)

for compliance with the standards, which are identified in the Minnesota Pollution Control Agency's NPDES Phase II construction site storm water permit.

- b. Within seven (7) days, the Land and Resource Management Department shall either approve the submitted plan or notify the applicant or representative of any deficiencies.

6. Permit conditions.

- a. The plan shall be implemented prior to the start of any land disturbing activity and shall be maintained over the duration of the project. Permanent storm water components of the plan shall be maintained in perpetuity.
- b. The permittee is responsible for successful completion of the SWPPP. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.
- c. Application for a permit shall constitute express permission by the permittee and landowner for the local approval authority to enter the property for purposes of inspection or curative action. The application form shall contain a prominent provision advising the applicant and landowner of this requirement.
- d. Where installed storm water practices will be privately-owned, an affidavit which describes the property by legal description, notifying future prospective purchasers of the existence of a storm water practice and applicable maintenance plan, shall be recorded with the Douglas County Register of Deeds prior to issuance of a permit.

7. Inspections.

- a. Application for a permit under this Ordinance shall constitute permission by the applicant and landowner for the Douglas County Land and Resource Management Department to enter upon the property and inspect during the construction phase prior to the inspections pursuant to d. and f., below, as necessary to confirm compliance with the requirements of this Ordinance.
- b. Within ten (10) days after installation of all practices in an approved erosion control plan and achievement of soil stabilization, the permittee shall notify the Douglas County Land and Resource Management Department.
- c. The Douglas County Land and Resource Management Department shall inspect the property to verify compliance with the submitted SWPPP within ten (10) days of notification of soil stabilization.
- d. Within ten (10) days after installation of all practices in an approved SWPPP, the permittee shall notify the local approval authority and submit drawings documenting construction. The person who designed the SWPPP for the permittee shall submit as-built certification to ensure that constructed storm water management practices and

conveyance systems comply with the specifications included in the approved plans. At minimum, as-built certification shall include a set of drawings comparing the approved SWPPP with what was constructed.

- e. Douglas County shall inspect the property to verify compliance within ten (10) days of notification.
- f. Maintenance is the responsibility of the owner, and facilities are subject to inspection and orders for repairs.

8. Permit Transfer.

When the owner or operator changes, (e.g., an original developer sells portions of the property to various homebuilders), the new owner or operator must submit to Douglas County, a copy of the change of ownership/subdivision short form application that was sent to the MPCA Phase II Permit Program.

9. Plan or Permit Amendments.

Any major modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the Land and Resource Management Department prior to implementation of said changes.

10. Fees.

The permit fee shall be payable at the time an application for a permit is submitted.

11. Termination of Coverage.

- a. Permittee(s) wishing to terminate coverage under this permit must submit, to Douglas County, a copy of the Notice of Termination (NOT) sent to the MPCA. Compliance with this permit is required until a NOT is submitted.

12. Technical Standards and Specifications.

- a. BMPs. The design of all best management practices designed to meet the requirements of this section shall comply with the following technical standards:

(1.)Minnesota Pollution Control Agency's "Protecting Water Quality in Urban Areas," or its successor;

(2.)Natural Resources Conservation Service's "Field Office Technical Guide, Chapter 4," or its successor; and

(3.)Any other technical methodology, providing they are at least as effective and stringent as MPCA best management practices.

13. Storm Water Discharge Design Requirements.

- a. Storm water discharge design requirements for Douglas County are the same as those set forth in the NPDES Phase II permit program as promulgated by the MPCA.
- b. In addition, the identity of the entity responsible for long-term maintenance of the permanent storm water practices, along with the maintenance plan and schedule, must be submitted to Douglas County Land and Resource Management.

14. Construction Activity Requirements.

- a. Construction activity requirements for Douglas County are the same as those put forth in the NPDES Phase II permit program as promulgated by the MPCA.

15. Additional Provisions for the Natural Environment Shoreland Zoning Classification.

- a. Temporary erosion and sediment control measures must be inspected, maintained, and remain functional until final stabilization has occurred on disturbed areas.
- b. The creation of a half (.5) acre up to one (1) acre of new impervious surface shall require permanent storm water structures for water quality treatment. Said structures are to be designed and inspected by a licensed professional engineer.
- c. Multiple cell storm water ponds are required if one (1) or more acres of new impervious surface is created.

16. Permit Fees.

- a. Douglas County will establish a fee schedule for the standard permit.
- b. Local government units, charged with maintaining public roads, are exempt from the fee requirements of the Ordinance when performing those duties.

S. Sensitive Features

1. Purpose and Intent.

The purpose of this section is to identify environmentally or culturally sensitive features which serve important ecological or other purposes to the people of Douglas County. Areas identified as sensitive features are based on the best available data and are general in nature in terms of exact locations and boundaries. The County intends that the data be used to provide additional information to landowners, developers, staff and the Planning Advisory Commission so that the sensitive nature of the resources is considered as land is developed and/or altered. Properties where development or alteration is proposed are encouraged to avoid alteration of or impacting sensitive features or to mitigate potential negative impacts on sensitive features as much as is reasonably possible. In reviewing applications where

sensitive features may be impacted, the Planning Advisory Commission may impose conditions as necessary to protect such features, including requirements to determine exact boundaries, avoidance of sensitive features during development or alteration, or specific practices intended to mitigate potential negative impacts.

Natural features considered by Douglas County to be sensitive features are listed below. Maps depicting these features will be available at the Land and Resource Department and are intended to be updated as new or improved data become available from the relevant data source.

Category	Sensitive Feature	Source of Data
Shallow Groundwater	1. Shallow and hydric soils (soils classified as “poorly drained” and “very poorly drained”)	Soil Survey Geographical Data Base (SSURGO Douglas County Minnesota)
	2. Wetlands	National Wetland Inventory, U.S. Fish and Wildlife Service
Topography	1. Steep slopes (slope of 12% or greater)	Soil Survey Geographical Data Base (SSURGO Douglas County Minnesota)
	2. Bluffs	As identified by the Douglas County Soil during onsite mapping of Bluffs (data is stored at the Douglas County GIS Department)
Aquatic Resources	1. Aquatic vegetation	Minnesota Department of Natural Resources, Section of Fisheries, Lake Survey Reports.
	2. Fish spawning areas (emergents - hard stem bulrush and cattails; floating-leaf plants - yellow and white water lily)	Minnesota Department of Natural Resources
Habitat	1. Areas of High Ecological Significance	Minnesota Department of Natural Resources – County Biological Survey
	2. Areas of Moderate Ecological Significance	Minnesota Department of Natural Resources – County Biological Survey

T. Temporary Second Dwelling

1. Standards for temporary second dwelling for construction of a new dwelling.
 - a. The following lot/parcel size minimum shall be met:
 - (1.)The lot/parcel where the temporary second dwelling is to be located must be five (5) acres or larger; or
 - (2.)The applicant possesses contiguous parcels of land greater than forty (40) acres in size; or
 - (3.)A conditional use permit has been granted.
 - b. A land use permit for the new primary dwelling must be issued.
 - c. Use as a temporary second dwelling shall be for not longer than eighteen (18) months from the date of the issuance of the land use permit for the new primary dwelling. A conditional use permit shall be required for temporary second dwelling use longer than eighteen (18) months in all zoning districts where permitted.
 - d. Within eighteen (18) months from the date of the issuance of the land use permit for the new primary dwelling, the temporary second dwelling shall be removed from the property of rendered non-inhabitable and converted to an accessory structure that conforms to the standards for accessory structures in the zoning Ordinance for the applicable zoning district and a land use permit for accessory structure obtained. This standard shall not apply in cases where a CUP has been approved for a longer period of time.
2. Standards for temporary second dwelling for family supportive care.
 - a. The lot/parcel on which the temporary dwelling is placed shall be five (5) acres or larger in size, or a conditional use permit was issued for a parcel with less than five (5) acres.
 - b. The temporary second dwelling shall be accessory to the principal dwelling.
 - c. A land use permit for the temporary second dwelling must be issued.
 - d. The temporary second dwelling shall be located within the existing building site and shall meet all the setback requirements of the applicable zoning district for dwellings.
 - e. The temporary second dwelling shall meet the following dimensional and construction requirements:
 - (1.)The gross floor area of a dwelling or portion of an accessory structure finished as a dwelling shall be no greater than one thousand, two hundred (1,200) sq. ft.

(2.) If the proposed temporary dwelling is not a portion of a permitted accessory structure, then it shall be limited to a manufactured home or park model recreational vehicle placed upon temporary footings with trailer tongue, axles, and wheels attached.

(3.) The temporary dwelling shall meet the dimensional standards for accessory structures.

- f. The occupant(s) of either the temporary second dwelling or the principal dwelling must be family members or a licensed health care provider.
- g. Access to the temporary second dwelling shall be from an existing approach to the public road.
- h. The temporary second dwelling shall be connected to an approved septic treatment system, or connected to the compliant septic treatment system of the primary dwelling if it is sized to accommodate the additional bedrooms of the temporary dwelling, or connected to a central sanitary sewer system (Alexandria Lake Area Sanitary District).
- i. Within one hundred eighty (180) days after the use of the temporary second dwelling for family supportive care ceases, the structure shall be removed from the property or rendered non-inhabitable and converted to an accessory structure that conforms to the standards for accessory structures in the zoning Ordinance for the applicable zoning district, and a land use permit for an accessory structure obtained.
- j. Only one (1) temporary second dwelling shall be permitted per lot/parcel.

U. Private/Vacation Home Rental

1. Purpose and intent

- a. Douglas County and the Alexandria Area have a long history as a tourism and recreational destination. Private/vacation home rentals appear to benefit Douglas County economically in the areas of tourism and real estate. However, the use of residential properties for short-term vacation rental can have a negative impact on neighbors. Through a series of meetings and work sessions, the Douglas County Board of Commissioners identified the following findings concerning private/vacation home rentals:

(1.) Private/vacation rentals provide primarily economic benefits to the community that may be realized through tourism revenue, increased sales of vacation properties, increased property values, improved maintenance of properties, all contributing to a greater property tax base.

- (2.) Some behavior of tenants using private/vacation rentals can impact neighboring residents with disruptive or annoying noise; traffic, congestion, and inappropriate parking; and unknowing or purposeful trespass.
 - (3.) Frequent and continuous short-term rental use may affect health and safety of communities through impacts on air quality from campfires, over-use of septic systems, and risky or illegal behaviors.
 - (4.) Inconsistent management, lack of rental policies, and limited communications between owners/managers and renters, neighbors, and regulators can exacerbate issues.
 - (5.) Laws, statutes, and rules that control noise, parking, and trespass have not been widely adopted at the county or township level, and at the state level are largely aimed at criminal activity rather than recurring nuisances.
 - (6.) State and county regulations exist to address health and safety concerns related to short-term lodging, but current definitions exempt private/vacation home rental from the requirements.
- b. The intent of these proposed amendments to the zoning ordinance is to allow the use of private/vacation home rentals in appropriate zoning districts, but establish standards with the intent of mitigating or eliminating potential impacts to the health, safety, general wellbeing of neighboring property owners and tenants. Specifically, the amendments are intended to:
- (1.) Establish basic performance standards for health and safety, and controls to address nuisance issues, that can be enforced through the licensing of private/vacation home rental properties.
 - (2.) Require licensing of private/vacation home rentals to address most health, safety, capacity, and sanitation issues specific to this use.
 - (3.) Establish rental management standards that require owners or managers to be informed and locally available, as well as to proactively communicate with renters, neighbors, and county agencies to ensure the vacation rental is operated in compliance with state and local regulations while maintaining a positive relationship with neighboring homeowners.
 - (4.) Hold rental property owners and managers responsible for guest conduct through clearly defined enforcement measures, the severity of which should increase with the documentation of repeated violations.

2. License/Permits

- a. All uses that meet the definition of private/vacation home rental in Section VIII., shall be licensed by the County (Horizon Public Health), for each year in which the rental use occurs and shall meet all requirements of the applicable sections of the Douglas County Lodging Ordinance.
- b. License holder must post the current license number on all advertisements or web-based reservation service pages.
- c. The following information shall be submitted to Horizon Public Health annually with the license application:
 - (1.)Name and contact information for the local contact, per subpart 4., a., below.
 - (2.)The aerial image of property and features, per subpart 4., c., (4.), below.
 - (3.)A current State/County septic compliance inspection form showing the system to be compliant, if one is present.
- d. A conditional use permit shall be required for private/vacation home rental where:
 - (1.)There is more than one rental unit on a parcel and/or where two (2) or more private/vacation home rentals are on contiguous parcels under common ownership (including immediate family members).
 - (2.)The overnight guest occupancy, in subpart 3., d., will be exceeded.
 - (3.)Events exceed the maximum capacity of persons on the property as set forth in subpart 3., g.

3. General requirements

- a. Noise levels shall not exceed the standards established in MN Rules, chapter 7030, or successor rules. Noise levels shall not exceed 50 dB for more than 30 minutes, as measured at the property line of the rental property, between the hours of 10 pm and 7 am.
- b. Parking shall meet the standards listed herein in Section V., E., and:
 - (1.)Public streets and rights-of-way shall not be used for parking of trailers or overnight parking of vehicles by tenants.
 - (2.)On-site vehicle parking shall be on a designated improved surface (gravel, class-5, asphalt, concrete, pavers).

- (3.)Trailer parking shall be designated and meet setback requirements below.
- (4.)Designated parking shall be set-back 10-ft from property boundaries.
- c. The boundaries of the rental property shall be visually demarcated by signs, a fence, vegetation, landscaping, or other method as approved by the Director.
- d. Overnight guest occupancy is the maximum number of overnight guests allowed at a private/vacation home rental without a conditional use permit. Overnight guest occupancy shall not exceed the lesser of the following limits unless a conditional use permit has been granted to do so:
- (1.)Three (3) overnight guests per bedroom.
- (2.)For a rental property with an individual septic treatment system considered to be substandard under Section VI., D., 2., c., (3.), the maximum number of overnight guests shall not exceed the total treatment capacity of the system in gallons per day divided by 75 gallons per overnight guest. (i.e.; $450\text{gal/day} / 75\text{gal} = 6$ overnight guests)
- (3.)Not more than a total of 12 overnight guests unless a conditional use permit has been issued where such a use is conditionally permitted.
- e. The use of detached or temporary sleeping accommodations such as RVs, tents, fish-houses, campers or others to increase the overnight guest capacity shall be prohibited.
- f. Not more than one private/vacation home rental unit shall be allowed on a parcel. More than one rental unit on the same parcel or single units on contiguous parcels under common ownership shall require a conditional use permit where the use is conditionally permitted.
- g. The property capacity is the total number of overnight guests and visitors allowed to be present on the property at any given time. The property capacity shall not exceed the following thresholds unless a conditional use permit has been granted, as per subpart 2., d., above:
- (1.)Two times (2x) the overnight guest occupancy for properties where neighboring dwellings are 200 ft. or less from the rental dwelling or the property is less than two (2) acres in area.
- (2.)Three times (3x) the overnight guest occupancy for properties where neighboring dwellings are more than 200 ft. from the rental dwelling and the property is two (2) acres or greater in area.

4. Rental Property Management and Notifications

- a. The rental owner, operator, or manager shall designate a local contact who meets the following requirements:
 - (1.) Is available 24 hours per day, seven days per week.
 - (2.) Can respond by phone within 60 minutes and in-person within 120 minutes of notification.
 - (3.) Has administrative authority over the property and guests.
 - (4.) Has knowledge of the vacation rental unit, the property, rental and County rules, standards, and procedures.
- b. The rental owner, operator, or manager shall provide the name and phone number of the contact in subpart a., above, to the County at the time of licensing and to all property owners within 200 ft. of the rental property boundary. Any change of contact or contact information shall be noticed as above to the County and neighbors within 10 days of the change.
- c. The following information shall be posted within the rental unit in a prominent location so as to be easily visible and read by the guests:
 - (1.) The full name and phone number of the owner or operator;
 - (2.) The full name and phone number of the local contact person or local management agent;
 - (3.) Local emergency contact information (police, fire, ambulance, septic maintainer);
 - (4.) Aerial image of the property clearly showing property boundaries, parking areas, shore recreational facilities, garbage receptacles, septic treatment system.
 - (5.) The maximum number of overnight guests and total guest capacity of the property.
 - (6.) The maximum number of parking spaces.
 - (7.) Any applicable County or township ordinances governing noise, parking, pets, or lakes (AIS laws, water surface zoning).
 - (8.) A copy of the Douglas County *Good Neighbor Brochure*.
- d. The total permitted overnight guest occupancy and the total number of persons permitted on the property shall be included on all advertisements or web-based reservation service pages.

- e. Prior to occupancy, the owner, operator, or manager shall:
 - (1.) Obtain the full name, address, and vehicle license plate information from the person renting the property.
 - (2.) Record the number of guests and dates of the rental.
 - (3.) Require the guest(s) to formally acknowledge responsibility for the compliance by all tenants or guests with the applicable laws, rules, and ordinances pertaining to vacation rentals in Douglas County.
 - (4.) Maintain a copy of the above records for one year and make available to the County upon request.

5. Sanitation

- a. The private/vacation home rental shall be served by central sanitary sewer (ALASD) or be connected to a compliant individual septic treatment system (ISTS). If connected to an ISTS, the following shall be required:
 - (1.) A current compliance inspection showing the system to be in compliance with State and local requirements shall be submitted with the application for license with Horizon Public Health.
 - (2.) An operating permit shall be required through the Land & Resource Management Department.
 - (3.) The ISTS shall be pumped not less than annually and records shall be submitted to the County before the end of the calendar year.
- b. Garbage, refuse, or recycling shall be stored completely enclosed within designated refuse containers. The owner or operator of the rental unit shall provide sufficient trash storage containers and service to accommodate the demand of the occupants.

SECTION VI. SANITATION – SUBSURFACE SEWAGE TREATMENT SYSTEMS

This is a section authorizing and providing for sewage treatment and soil dispersal in unsewered areas of the county. It establishes:

1. Minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and Mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in unsewered incorporated and unincorporated areas of Douglas County incorporating by reference minimum standards established by Minnesota Statutes and administrative rules of the Minnesota Pollution Control Agency;
2. Requirements for issuing permits for installation, alteration, repair or expansion of SSTS;
3. Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan;
4. Standards for upgrade, repair, replacement, or abandonment of SSTS;
5. Penalties for failure to comply with these provisions; and
6. Provisions for enforcement of these requirements.
7. Standards which promote the health, safety, and welfare of the public as reflected in Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the County Comprehensive Plan and the County Zoning and Shoreland Ordinance.

A. Title, Purpose, Intent, and Authority

1. Title, Purpose, and Intent.

a. Title.

(1.) This section shall be known, cited, and referred to as the “Douglas County Subsurface Sewage Treatment System Ordinance.” When referred to herein, it shall be known as “this Ordinance.”

b. Purpose.

(1.) The purpose of this Ordinance is to establish minimum requirements for regulation of SSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the county, to protect public health and safety, groundwater quality, and to prevent or eliminate the development of public nuisances. It is intended to serve the best interest of the county’s citizens by protecting its health, safety, general welfare, and natural resources.

c. Intent.

It is intended, by the County, that this Ordinance will promote the following:

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

2. Authority.

- a. This Ordinance is adopted pursuant to Minnesota Statutes, Chapters 115, 145A, 375, or successor statutes, and Minnesota Rules, Chapters 7080, 7081, 7082, or successor rules.

B. General Provisions

1. Scope.

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

2. Jurisdiction.

- a. The jurisdiction of this Ordinance shall include all lands of the County except for parcels within incorporated areas or sanitary sewer districts that are served by municipal sewer; or areas that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their jurisdiction, which is at least as strict as this Ordinance. The County shall keep a current list of local jurisdictions within the County administering a SSTS program.

3. Administration

a. County.

(1.)The Land and Resource Management Department, hereafter referred to as “Department,” shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review, revise, and update this Ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

b. State of Minnesota.

(1.)When a single SSTS or group of SSTSs under single ownership within one-half (.5) mile of each other have a design flow greater than ten thousand (10,000) gallons per day, the owner or owners shall make application for and obtain a state disposal system permit from the MPCA in accordance with Minnesota Rules, Chapter 7001. If the measured daily flows for a consecutive seven-day period exceed ten thousand (10,000) gallons per day, a state disposal system permit is required.

(2.)A state disposal system permit is also required for any SSTS or group of SSTSs that the MPCA commissioner determine has the potential or an increased potential to cause adverse public health or environmental impacts if not regulated under a state permit. Conditions for these permits include systems in environmentally sensitive areas, unsubstantiated or unexpected flow volumes, and systems requiring exceptional operation, monitoring, and management. (Minnesota Rules, Chapter 7081.0040, subp. 1(C)).

C. General Requirements

1. Retroactivity.

a. All SSTS.

(1.)Except as provided in Section b., Existing permits, below, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

b. Existing permits.

(1.) Unexpired permits, which were issued prior to the effective date of this Ordinance, shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership whichever is earlier.

c. SSTS on lots created after January 1, 1996.

(1.) All lots created after January 1, 1996, must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds or at-grade systems as described in Minn. R. Chs. 7080.2200 through 7080.2230; or successor rules, and must have site conditions as described in Minn. R. Ch. 7081.0270, Subpart 3 through 7; or successor rules. The two (2) identified soil treatment and dispersal areas shall be located on the lots they are intended to serve, unless the soil treatment and dispersal areas are approved by the County as part of a cluster SSTS. If a cluster SSTS is utilized, then all the lots within the plat shall be part of the cluster SSTS, unless otherwise approved by the Department.

2. Upgrade, Repair, Replacement, and Abandonment.

a. SSTS capacity expansions

(1.) Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the provisions of this Ordinance. For parcels with multiple SSTS, the upgrades shall be limited to the system that is adding capacity.

b. Failure to protect groundwater.

(1.) An SSTS that is determined not to be protective of groundwater in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B), shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within two (2) years of receipt of a notice of noncompliance.

c. Imminent threat to public health or safety.

(1.) An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minn. R. Ch. 7080.1500, Subp. 4(A), shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten (10) months of receipt of a notice of noncompliance.

d. Abandonment.

(1.) Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Section E., SSTS Permitting, below, and Minn. R. Ch. 7080.2500.

3. SSTS in Floodplains.

- a. SSTS for new construction shall not be located within any part of the General Floodplain District. Locating a replacement SSTS for an existing structure within the General Floodplain District should be avoided. If no option exists to locate a SSTS outside of the General Floodplain District, location within the District may be permitted if the requirement of Minn. R. Ch. 7080.2270, and all requirements of this Ordinance are met.

4. Class V Injection Wells.

- a. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the United States Environmental Protection Agency and the MPCA. Owners are also required to identify all Class V injection wells in property transfer disclosures. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (*See* 40 C.F.R. Parts 144 and 146).

5. SSTS Practitioner Licensing.

- a. No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of SSTS without an appropriate and valid license issued by the MPCA in accordance with Minn. R. Ch. 7083; or successor rules, except as exempted in Minn. R. Ch. 7083.0700; or successor rules.

6. Prohibitions.

- a. Sewage discharge to ground surface or surface water.

(1.)It is unlawful for any person to willfully discharge raw or partially treated wastewater/sewage to the ground surface or into any surface water, unless permitted by the MPCA under the National Pollutant Discharge Elimination System program.

- b. Sewage discharge to a well or boring.

(1.)It is unlawful for any person to willfully discharge raw or treated wastewater/sewage into any well or boring as described in Minn. R. Ch. 4725.2050, or any other excavation in the ground that is not in compliance with this Ordinance.

- c. Discharge of hazardous or deleterious materials.

(1.)It is unlawful for any person to willfully discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

D. SSTS Standards

1. Standards Adopted by Reference.

- a. The County hereby adopts and incorporates by this reference MPCA's SSTS Rules in Minn. R. Chs. 7080 and 7081 as amended in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute 115.55.

2. Amendments to the Adopted Standards.

- a. List of various adopted local standards.

- (1.) Land application of septage must be done on sites that are filed and approved by the Department prior to the licensed SSTS maintenance business applying septage.
- (2.) All new and replacement SSTS systems must establish a relative benchmark. A written description and photo documentation of the benchmark must be submitted to the Department as part of the design.
- (3.) Any activity involving an existing system that requires a SSTS construction permit shall require that the entire SSTS system meet Minn. R. Chs. 7080 -7083.
- (4.) A Management Plan is required in the Residential Shoreland District when a compliance inspection is needed and no management plan exists.
- (5.) All SSTS existing prior to the effective date of this Ordinance that would require an operating permit now shall require an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, compliance inspection or following any SSTS enforcement action.
- (6.) All documentation submitted to the Department for evidence of vertical soil separation for existing SSTS shall be completed on forms made available through the University of Minnesota Onsite Sewage Treatment Program, or on an equivalent form. The form shall include, but not be limited to, elevations of the surface grade; dispersal media/soil interface and limiting layers; soil profile as outlined in Minn. R. Ch. 7080.1720, Subpart 5, item A through H; or successor rules; a statement clearly indicating the vertical separation distance; a sketch showing the location of the SSTS; soil observation(s); and a certification statement signed by the licensed professional conducting the observation(s).
- (7.) For all new and replacement SSTS designs submitted to the Department for review, documentation shall be provided on the SSTS Professional Worksheets and Forms made available through the University of Minnesota Onsite Sewage Treatment Program, or on an approved equivalent form. The Department may reject any design

that does not meet the minimum of the SSTS Professional Worksheets and Forms. Digitally submitted forms are preferred.

- (8.) All systems designed for dwellings shall be based upon design flows of a Classification I dwelling. The minimum estimated flow must be sized for a two (2) bedroom dwelling as outlined in Minn. R. Ch. 7080.1860 Table IV; or successor rules.
- (9.) A written easement shall be recorded with the deed for any SSTS that is installed on a property held in ownership separate than that of the systems owner.
- (10.) Soil verifications shall be conducted according to Section E., 2., a., (5.) (c.), below.
- (11.) Licensed/Certified SSTS professional(s) completing a certification of compliance on their own private existing system must have a soil verification conducted by a Qualified Employee of the Department.
- (12.) Existing soil dispersal systems that are located under or within a structure or other impermeable surface shall be considered non-complaint and shall be repaired or replaced in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B).
- (13.) The owner of a holding tank shall maintain a valid contract with a Licensed SSTS maintenance business to pump and effectively handle the sewage in accordance with all applicable Minnesota Rules. The owner shall also submit to the Department, by January 31st of each calendar year, maintenance records for the previous year's tank maintenance.
- (14.) All property owners and certified SSTS professionals shall ensure all portions of any SSTS placement, design, or construction, meet or exceed any applicable setbacks, including the specified setbacks as listed in Table A, below.
- (15.) Commercial establishments that utilize a private SSTS, and do not have an operating permit shall operate under a standing Certificate of Compliance with the Department. These establishments shall certify the existing SSTS once every three (3) years, or upon the Department finding evidence of noncompliance.
- (16.) In cases where a sewage pipe must cross a waterline, the sewage pipe must be pressure tested to hold five (5) pounds of pressure for fifteen (15) minutes and meet or exceed the standards set forth in Minn. R. Ch. 4715.1710, Subpart 2, item E; or successor rules.
- (17.) New Structures. Sewage tanks for new structures shall not be buried deeper than four (4) feet from final grade, unless the tank manufacturers designed depth for the tank allows the tank to be buried deeper, but not to exceed seven (7) feet from final grade.

- (18.) Existing Structures. Sewage tanks for existing structures cannot exceed the tank manufacturers designed depth for the tank and shall not be buried deeper than seven (7) feet from final grade.
- (19.) All pump tanks and holding tanks must have an electric visual and/or audio alarm device to warn of failure and prevent of overflow.
- (20.) An effluent screen with an alarm must be employed on all new and replacement systems excluding holding tanks.
- (21.) All SSTS shall be located as specified in Table A., Minimum Setback Distances (feet), listed below.
- (22.) A Management Plan is required for any system without a management plan when a property is transferred.
- (23.) The major components of a new or replacement SSTS must be marked (flagged or staked) on site at the time of application for system installation to protect those areas from disturbance and compaction. Major components include but are not limited to tanks and soil treatment area.
- (24.) If any proposed construction or alteration to an existing dwelling requires a land use permit and would increase the design flow to the SSTS, then the system must be sized to accommodate the increased flow regardless of the compliance status. Design flows shall be calculated in accordance with Minn. R. Ch. 7080.1860.
- (25.) Maintainers must submit a copy of the required reporting responsibilities in Minn. R. Ch. 7083.0770, Subp. 2. to the Land and Resource Department by January 31st of each calendar year for work completed during the previous calendar year.

TABLE A
Minimum Setback Distances (feet)

	Sewage or Holding Tank	Soil Treatment or Absorption area	Building Sewer or Supply Pipes
Water Supply Wells ¹	50	50	50 ²
Water Supply Wells ¹ (less than 50 feet of continuous casing)	50	100	50 ²
Buried water suction pipe ¹	50	50	50 ²
Buried pipe distributing water under pressure ¹	10	10	10
Buildings ³	10	20	-
Property Lines ⁴	10	10	-
State, County, and Township Road Rights-of-Way	10	10	-

The ordinary high water level of the following types of waterbodies:

Natural Environmental Lakes and Trout Streams	150	150	-
Recreational Development Lakes	75	75	-
General Development Lakes	75	75	-
Transition Rivers	100	100	-
Agriculture and Tributary Rivers	75	75	-
Public drainage systems as defined in <i>Minnesota Statutes, section 103E.005, or successor statutes.</i>	50	50	-
All public waters protected wetlands as defined by <i>Minnesota Statutes, section 103G.005, or successor statutes</i>	50	50	-
Unprotected wetlands within NES Zoning	50	50	-
All Other Wetlands	25	25	-

¹Setbacks from buried water pipes and water supply wells are governed by *Minn. R. Chs. 4715 and 4725, or successor rules*, respectively.

²If building sewer or supply pipe and water line are schedule forty (40) (or equivalent) and hold five (5) pounds of air pressure for fifteen (15) minutes, the setback can be reduced from fifty (50) to twenty (20) feet. In no case shall a building sewer or supply pipe be installed less than twenty (20) feet from a water supply well.

³For structures other than buildings, these setbacks are allowed to be reduced, if necessary, due to site conditions (as determined by the Department), but in no case shall any part of a SSTS be located under or within the structure or other impermeable surface.

⁴Infringement on property line setbacks may be permitted with the approval of the Department prior to installation of the system.

b. Local standard for determination of hydraulic loading rate and SSTS sizing.

(1.) Table IX entitled, "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions" and Table IXa entitled, "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests" from Minn. R. Ch. 7080.2150, Subp. 3, item E; or successor rules, and herein adopted by reference shall both be allowed for utilization to size SSTS infiltration areas based on the following criteria:

(a.) Table IX or Table IXa shall be allowed to be utilized by those certified design professionals/licensed design companies that hold an Advanced Designer certification from the MPCA.

(b.) Table IXa shall be utilized by all certified design professionals/licensed design companies that hold a Basic Designer certification from the MPCA.

c. Local compliance criteria for existing SSTS.

(1.) SSTS built before April 1, 1996, outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two (2) feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

(2.) SSTS built after March 31, 1996, or SSTS located in a Shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under Minn. R. Ch. 7080.1100, Subp. 84 shall have a three (3)-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a fifteen percent (15%) reduction in this separation distance (a separation distance no less than thirty and six tenths (30.6) inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. Minn. R. Ch. 7080.1500, Subp.4.

(3.) An existing SSTS System installed prior to April 1, 1996, and located in a Shoreland Zoning District shall be considered substandard if the tank capacity does not meet Minn. R. Ch. 7080.1930 and/or the soil dispersal area of the SSTS does not meet the design flows of a Classification I dwelling. Substandard SSTS systems shall be upgraded and reclassified as a Type III system, which requires an operating permit and annual reporting or repaired or replaced in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B). The minimum estimated flow must be sized for a two (2) bedroom dwelling as outlined in Minn. R. Ch. 7080.1860, Table IV; or successor rules.

d. Local standards for holding tanks.

- (1.) Undeveloped lots of record on which a holding tank is the only practical means of sewage treatment are unsuitable for residential use.
- (2.) Holding tanks may be used as an alternative for existing failing SSTS, or SSTS that pose an imminent threat to public health or safety.
- (3.) For vault toilets built in any public facility.
- (4.) For residential accessory structures with lavatory facilities where it is not feasible to connect to an existing SSTS on the property.
- (5.) For replacement dwellings constructed under Minnesota Statutes, Section 394.36; or successor statutes with a previous existing, permitted holding tank.
- (6.) For recreational vehicle dump stations located in a licensed recreational vehicle campground.
- (7.) A holding tank designed to service a recreational vehicle may be installed and used on an undeveloped lot of record if:
 - (a.) A design, completed by a licensed designer, is submitted that states the lot has an acceptable area to accommodate a standard soil treatment system; and
 - (b.) The designated future soil treatment area is protected from compaction and/or development.
- (8.) Note that to qualify as a holding tank, tanks must comply with Minn. R. Ch. 7080.2290, items A through F. Further, all owners of holding tanks shall be issued an operating permit (Minn. R. Ch. 7082.0600, Subp.2A), which must include the minimum provisions listed in Minn. R. Ch. 7082.0600, Subp.2B, (1) through (8).
- (9.) Conditions for holding tanks installed or changes made to holding tanks after the enactment of this Ordinance include:
 - (a.) Maintain a current operating permit.
 - (b.) At the time of the final installation inspection, evidence of a water tightness test as described in Minn. R. Ch. 7080.2010, Subp. 3; or successor rules, shall be submitted to the Department.

- (c.) A water meter, accessible to be read at time of pumping, shall be installed on the incoming waterline servicing fixtures attached to the holding tank, recorded at time of pumping, to verify the water usage.
 - (d.) The owner of a holding tank shall maintain a valid contract with a Licensed SSTS Maintenance Business to pump and effectively handle the sewage in accordance with all applicable Minnesota Rules.
 - (e.) The owner shall also submit to the Department, by January 31st of each calendar year, maintenance records and flow readings for the previous year's tank maintenance.
 - (f.) Holding tanks must have an electric visual and/or audio alarm for the prevention of overflow.
 - (g.) Failure to meet any of the above requirements shall be cause for the operating permit to be revoked and holding tank to be considered non-compliant.
- (10.) Holding Tank Installation Requirements. The installation of a holding tank shall occur in accordance with Minn. R. Ch. 7080.2290.
- (11.) At the time of property transfer, the new property owner must apply for a continuation of the operating permit and meet the conditions of the operating permit and provide a current pumping contract.
- (12.) Storage of septage at a centralized location. Maintenance businesses may store septage until weather and soil conditions are more favorable for the land application of septage, providing the following conditions are met:
- (a.) Limit of fifty-thousand (50,000) gallons of septage storage.
 - (b.) Storage is limited to the Agricultural Zoning District.
 - (c.) SSTS construction permit and operating permit are required.
 - (d.) Storage conducted by MPCA-licensed SSTS maintenance business.
 - (e.) Tanks and facility must meet requirements for holding tanks following MPCA requirements.
 - (f.) If a maintenance business seeks storage on more than one site, the MPCA permit threshold will be evaluated based on the provision of Minn. R. Ch. 7081.0040, Subp. 1(B).
 - (g.) Tanks must meet a one hundred (100) foot setback to property lines.

3. Variances.

a. Variance requests.

(1.) A property owner may request a variance from the standards as specified in this Ordinance pursuant to Section VII., Administration, H., Variances.

b. Affected agency.

(1.) Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the State Agency pursuant to the requirements of the State Agency.

E. SSTS Permitting

1. Permit Required.

a. It is unlawful for any person to construct, install, modify, replace or operate an SSTS without the appropriate permit from the Department. The issuing of any permit, variance, or conditional use shall not absolve the applicant of responsibility to obtain any other required permit. Conducting work on an SSTS without first securing the appropriate permits shall result in the imposition of additional fees, as set forth in the County's current fee schedule.

2. SSTS Construction Permit.

a. An SSTS construction permit shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, and repair or capacity expansion of an SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by an appropriately licensed MPCA practitioner.

(1.) Activities requiring a SSTS construction permit.

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

(2.) Activities not requiring a permit.

(a.) A SSTS construction permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change

the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

(3.) SSTS construction permit required to obtain land use permit.

(a.) For any property on which a SSTS construction permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a land use permit may be issued by the Department.

(4.) Conformance to prevailing requirements.

(a.) When an SSTS Construction Permit is required for an activity such as a repair, addition or replacement of a component of an existing SSTS that activity shall require the entire system is brought into compliance with this Ordinance.

(5.) SSTS Construction Permit Application Requirements.

(a.) SSTS Construction Permit applications shall be made on forms provided by the Department and signed by the property owner, or their authorized agent. The applications shall include the following information:

- i. Name, mailing address, and telephone number of the property owner;
- ii. Parcel Identification Number, property address, and legal description of property location;
- iii. Site Evaluation Report as described in Minn. R. Ch. 7080.1730; or successor rules;
- iv. Design report as described in Minn. R. Ch. 7080.2430; or successor rules;
- v. Management plan and operating permit as described in Minn. R. Ch. 7082.0600; or successor rules;
- vi. County soil verification sheet;
- vii. Site relative benchmark which includes:
 - a). Descriptive location of the benchmark;
 - b). Elevation of the limiting layers, installed soil treatment area, tank excavation bottom, and the top of the installed tank; and

viii. If applicable, a copy of a recorded easement agreements allowing installation of a SSTS on property held in ownership separate than that of the systems owner.

(b.) Preliminary Design Criteria for SSTS Construction Permit Applications. During the period between December 1st and April 15th, or when a comprehensive SSTS design cannot be determined due to frozen soil conditions, a preliminary SSTS design may be submitted. A preliminary SSTS Construction Permit application shall be made on forms provided by the Department and signed by the property owner, or their authorized agent. A complete SSTS design shall be submitted for review and the issued SSTS Construction Permit amended accordingly prior to any SSTS construction activity. The applications shall include the following information:

- i. Name, mailing address, and telephone number of property owner;
- ii. Property Identification Number, property address, and legal description of the property location;
- iii. Site Evaluation Report as described in Minn. R. Ch. 7080.1730; or successor rules;
- iv. A site map and soil descriptions generated from the United States Department of Agriculture Natural Resources Conservation Service web soil survey. <http://websoilsurvey.nrcs.usda.gov/app/>;
- v. Proposed management plan and operating permit as described in Minn. R. Ch. 7082.0600; or successor rules; and
- vi. If applicable, a copy of a recorded easement agreement allowing installation of a SSTS on property held in ownership separate than that of the systems owner.

(c.) Soil Verification Process. A soil verification, as described in Minn. R. Ch. 7082.0500, Subp. 3, item A, and Ch. 7082.0700, Subp. 4, item B (2); or successor rules, shall be conducted as follows:

- i. New designs.
 - a). Soil verifications shall be conducted by a Qualified Employee, or a Qualified Contract Inspector hired by the County for all new/replacement SSTS designs/installations.
 - b). Soil verifications are to be completed prior to the application of an SSTS permit. Design contractors shall arrange a meeting time with the

Department to meet at the site and complete the soil verification. A twenty-four (24) hour notice by the contractor to the Department is required.

- c). Soil pits are the preferred method of observation, with appropriate access into, and out of, the pit provided by the contractor. If soil pits cannot be completed, then manual auguring of soil samples may be allowed. Other accommodations will be considered on an as-needed basis, with extended completion timeframes subject to Department availability.
 - d). Upon completion of soil verifications, a copy of the verification form will be given to the designer and a copy retained by the Department. The original copy of the verification form shall be submitted as part of the SSTS design for permit review. If the verification form does not accompany the design submittal, and the Department copy cannot be located, the design will not be accepted. This soil verification can be used as one of the three (3) soil observations per site as required by Minn. R. Ch. 7080.1720, Subp. 4; or successor rules.
 - e). A fee established by resolution of the Douglas County Board of Commissioners for the soil verification will be charged in addition to the cost of the SSTS Construction Permit application fee, and both will be due at the time of permit application. Multiple verification fees shall be charged for multiple trips to a single site if the multiple verifications are due to system relocations, contractor changes, or other conditions caused by the property owner or authorized representative.
 - f). The design contractor is responsible for all utility locates, time arrangements, and actual excavation/boring activities.
 - g). All property owners and Certified SSTS Professionals shall ensure all portions of any SSTS placement, design, or construction meet or exceed the specified setbacks as listed in Table A, Section D., SSTS Standards, above.
- ii. Existing systems.
- a). A total of two (2) soil observations shall be required for existing SSTS compliance certifications unless lifetime verification has been completed. The soil observation shall be completed in an area that is anticipated to have the most limiting soil conditions and shall be conducted outside the area of influence and along the same contour.
 - b). Lifetime verifications may be used to verify the soils for the life of the system. A lifetime verification is completed by an independent, private,

licensed professional and the Department prior to certification of an existing SSTS. A total of two (2) soil observations shall be required. The soil observation shall be completed in an area that is anticipated to have the most limiting soil conditions and shall be conducted outside the area of influence and along the same contour. Only soils verified on or after January 1, 2010, will qualify for lifetime verification.

c). A fee established by resolution of the Douglas County Board of Commissioners for the Lifetime verification will be charged.

iii. If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the dispute resolution procedure described in Minn. R. Ch. 7082.0700, Subp. 5.

(6.) Application review and response.

(a.) The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation. The Department shall complete the review within fifteen (15) days of receipt of a complete application. If the permit application is incomplete, or does not meet the requirements of this Ordinance, the Department shall deny the application. A notice of denial shall be provided to the applicant, stating the reason(s) for the denial.

(7.) Design change to application or permit.

(a.) In the event a significant change is proposed to be made to an approved application, the applicant or his agent must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification or operation. The proposed changes must be approved by the signature of the licensed designer who completed the design for the application.

(8.) Appeal.

(a.) The applicant may appeal the Departments decision to deny the SSTS Construction Permit in accordance with the County's established policies and appeal procedures.

(9.) Permit expiration.

- (a.) An SSTS Construction Permit is valid for a period of no more than one year from its date of issue. Satisfactory completion of construction shall be determined by a Qualified Employee of the Department or a Qualified Contract Inspector and shall include an as-built drawing and a signed certification that the construction or installation of the system was completed in conformance with the approved design documents.

(10.) Extension and renewals.

- (a.) The Department may grant an extension of the SSTS Construction Permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than one (1) additional year.

(11.) Suspension or revocation.

- (a.) The Department may suspend or revoke a SSTS Construction Permit issued under this section for any false statements, misrepresentations of facts on which the SSTS Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid SSTS Construction Permit is obtained.

3. Operating Permit.

a. SSTS requiring and operating permit.

- (1.) An operating permit is required for all new holding tanks, Type III, Type IV, Type V, Commercial Establishments, and MSTs. Sewage shall not be discharged to a holding tank or MSTs until the department certifies that the holding tank or MSTs was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTs, and a valid operating permit is issued to the owner. Owners of existing SSTS that are not operated under a management plan must inspect and remove solids from septic tanks as necessary but in no case less frequently than every three (3) years.

b. Operating permit application requirement.

- (1.) Application for an operating permit shall be made on a form provided by the Department and shall include the following information:

- (a.) Property owner name, mailing address, and telephone number.
 - (b.) SSTS Construction Permit reference number and date of issue.
 - (c.) Final as-built drawings of the SSTS.
 - (d.) Owners of holding tanks must submit and keep current, a copy of a valid executed monitoring and disposal contract with a licensed maintenance business. Any change due to property ownership or contractor listed on the monitoring and disposal contract shall require the current property owners to obtain a valid executed monitoring and disposal contract with a licensed maintenance business.
 - (e.) Payment of application fee.
- (2.) Monitoring and disposal contract.
- (a.) Owners of holding tanks shall provide the Department a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minn. R. Ch. 7082.0100, Subpart 3, item G; or successor rules. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, Section 115.56, Subdivision 2, Paragraph (b), Clause (3); or successor statutes. The owner must hold a valid contract with a licensed maintenance business at all times until such time the holding tank is abandoned or the property sold.
- (3.) SSTS existing prior to the effective date of this Ordinance.
- (a.) All SSTS existing prior to the effective date of this Ordinance that would require an operating permit now shall require an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, compliance inspection or following any SSTS enforcement action.
- c. Application review.
- (1.) The director shall review the complete application, any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the director. If the submitted application and documents fulfill the requirements, the director shall issue an operating permit within fifteen (15) working days of receipt of the complete permit application.
- d. Operating Permit terms and conditions. The Operating Permit shall include the following:

- (1.) System performance requirements.
- (2.) System operating requirements.
- (3.) Monitoring locations, procedures, and recording requirements.
- (4.) Maintenance requirements and schedules.
- (5.) Compliance limits and boundaries.
- (6.) Reporting requirements.
- (7.) Department notification requirements for non-compliant conditions.
- (8.) Valid contract between the owner and a licensed maintenance business.
- (9.) Disclosure, location, and condition of the acceptable soil treatment and dispersal system site.
- (10.) Descriptions of acceptable and prohibited discharges.

e. Permit expiration and renewal.

- (1.) Operating permits issued in conjunction with a new SSTS Construction Permit shall have an initial five (5) year timeframe of compliance. Renewal operating permits and all other operating permits issued shall be valid for a three (3) year time frame.
- (2.) An operating permit must be renewed when one of the following conditions exists: expiration of an existing operating permit, transfer of ownership, replacement, any modification or expansion that requires a permit, or following any SSTS enforcement action. Renewal of an operating permit must occur within thirty (30) days of its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within ninety (90) days of the expiration date, the County may require that the system be abandoned in accordance with paragraph 4., Abandonment Certification, below.
- (3.) The Department shall notify the holder of an operating permit at least ninety (90) calendar days prior to expiration of the permit. The Owner must apply for renewal at least thirty (30) calendar days before the expiration date.
- (4.) Application shall be made on a form provided by the Department and shall include:
 - (a.) Property owner name, mailing address, and phone number.
 - (b.) Reference number of expired operating permit.

- (c.) Any and all outstanding Compliance Monitoring Reports as required by the operating permit.
 - (d.) Certified SSTS inspection signed by a certified designer, maintenance contractor, or operator.
 - (e.) Any revisions made to the operation and maintenance manual.
 - (f.) Payment of application fee.
- f. Amendments to existing operating permits not allowed.
- (1.) The County may not amend an existing permit to reflect changes in this Ordinance until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.
- g. Transfers.
- (1.) The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with paragraph 3., Operating Permit, paragraph b., above. The Department shall not terminate the current permit until sixty (60) calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a compliance inspection of the treatment system.
- h. Suspension or revocation.
- (1.) The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
 - (2.) Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
 - (3.) If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with paragraph 4., Abandonment Certification, below.
 - (4.) Failure to follow the conditions of the operating permit or management procedures prescribed in the management plan shall result in the systems being deemed non-compliant by the County.
 - (5.) At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

i. Performance monitoring.

- (1.) Performance monitoring of a SSTS shall be performed by an appropriately licensed professional hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
- (2.) A monitoring report shall be prepared and certified by an appropriately licensed professional. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - (a.) Owner name and address.
 - (b.) Operating Permit number.
 - (c.) Average daily flow since last compliance monitoring report.
 - (d.) Description of type of maintenance at date performed.
 - (e.) Description of samples taken (if required), analytical laboratory used, and results of analyses. Include a statement that the results are within a defined parameter.
 - (f.) Problems noted with the system and actions proposed or taken to correct them.
 - (g.) A clear description of process used to determine compliance including the use of sampling and field verification.
 - (h.) Name, signature, license and license number of the licensed professional who performed the work.

4. Abandonment Certification.

a. Purpose.

- (1.) The purpose of the System Abandonment Certification is to ensure that a treatment system no longer in service is abandoned within a reasonable time following decommissioning and in a manner that protects public health, safety, and water quality. It also terminates all permits associated with the system.

b. Abandonment requirements.

- (1.) Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection

to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.

(2.) Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.

(3.) An owner of a SSTS must abandon all components of the treatment system not in use within five (5) calendar days of a system replacement. Abandonment shall be completed in accordance with Minn. R. Chs. 7080.2500. The owner or owner's agent must provide the Department notification two (2) days prior to abandoning a system.

(4.) Abandonment's must be certified and shall be completed by either of the following methods within five (5) days of a new SSTS system construction:

(a.) A licensed SSTS business may abandon all components of the discontinued SSTS. Abandonment shall be completed in accordance with Minn. R. Ch. 7080.2500; or successor rules. An abandonment report shall be submitted to the Department. The report shall include:

i. Property owner's name and contact information.

ii. Property address.

iii. SSTS Construction Permit and operating permit reference numbers.

iv. The reason(s) for abandonment.

v. A brief description of the abandonment methods used, description of the system components removed or abandoned in place and final disposal method for any materials or residuals.

(b.) An owner of an SSTS may abandon all components of the discontinued SSTS by personally performing the required work. Abandonment shall be completed in accordance with Minn. R. Ch. 7080.2500; or successor rules. Prior notification of the Department of an owner's intent to abandon a system is necessary, and the Department shall conduct an abandonment inspection.

c. Abandonment approval

(1.) Upon receipt of an abandonment report, the Director shall determine if the SSTS has been abandoned according to the requirements of this Ordinance. If the abandonment is not completed according to the requirements of this Ordinance, the Director shall notify the owner of the SSTS of the deficiencies, which shall be corrected within

thirty (30) calendar days of the notice. Once the abandonment is completed according to the requirements of the Ordinance, the Director shall approve the report and place into the County records.

F. Management Plan

1. Purpose

- a. The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by a certified designer to the system owner when the SSTS has been designed and submitted to the Department for a SSTS Construction Permit.

2. Management Plan Requirements.

- a. SSTS requiring management plans:

- (1.) Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the SSTS construction permit application for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

- (2.) Management plans shall be required for any existing system requiring a permit for a repair, modification, or expansion and for any system without a management plan when a property is transferred.

- (3.) Systems in the Residential Shoreland District shall not be considered compliant unless they have a valid management plan.

- b. Required contents of a management plan. Management plans shall include:

- (1.) Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform.

- (2.) Monitoring requirements.

- (3.) Maintenance requirements including maintenance procedures and a schedule for routine maintenance.

- (4.) Statement that the owner is required to notify the Department when the management plan requirements are not being met.

- (5.) Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.

(6.) Any performance component; which shall include a description of the performance system component, how the system functions, equipment specifications, emergency operating procedures in the event of a malfunction, and a troubleshooting guide.

(7.) Other requirements as determined by the Department.

c. Requirements for systems not operated under a Management Plan.

(1.) Owners of SSTS that are not operated under a management plan or operating permit must have septic tanks inspected and provide for the removal of solids as necessary, but in no case less frequently than every three (3) years. Solids must be removed when their accumulation meets the limit described in Minn. R. Ch. 7080.2450; or successor rules.

d. Required submission of Maintenance Reports.

(1.) Licensed maintenance businesses must abide by the requirements described in Minn. R. Ch. 7083.0770, Subp. 2. All written reports of any noncompliance required by Minn. R. Ch. 7083.0770, Subp. 2 must be provided to the homeowner and the Department within thirty (30) days after any maintenance work is performed.

G. Compliance Management

1. Public Education Outreach.

a. Programs shall be provided by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

2. Compliance Inspections.

a. Required inspections.

(1.) Inspections must be performed:

(a.) Any time deemed appropriate by the Department to ensure compliance with this Ordinance.

(b.) Prior to issuance of any Land Use Permit, Conditional Use Permit or Variance within all districts, the onsite sewage treatment system must be verified for compliance. Exceptions to this requirement include construction, repair, or modification of certain buildings or structures, which are not used for human habitation and do not generate wastewater, that are located in the Agricultural and

Rural Residential Districts on properties ten (10) acres in size or greater or on properties less than ten (10) acres in size where the applicant possesses contiguous parcel(s) of land greater than forty (40) acres in size, and where any septic system(s) on the property have been determined to be compliant by inspection within the last twenty (20) years. If the inspection requires the upgrade or replacement of any portion of the system, a design must be submitted to the Department and SSTS permit obtained in order to obtain a Land Use permit, Conditional Use Permit, or Variance. The inspection may be delayed if the permit application is made during the period when a compliance inspection is not able to be completed due to winter conditions. A Land Use Permit may not be able to be issued until a Certificate of Compliance is issued. A compliance inspection must be performed and submitted before the following June 1.

- (c.) For all new SSTS construction or replacements.
 - (d.) Upon the transfer of property ownership.
 - (e.) Any time there is an expansion of use of the building being served by an existing SSTS, which may impact the performance of the system.
 - (f.) Any time there is a change in use of the property being served by an existing SSTS, which may impact the performance of the system.
 - (g.) Anytime there is a permit issued in the Shoreland District.
- (2.) All Compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
 - (3.) The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor a SSTS. As used in this paragraph, "property" does not include a residence.
 - (4.) No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance.
- b. Compliance inspection procedure.
- (1.) For New SSTS installation, repair, replacement, or modification of existing systems:

- (a.) Compliance inspections must be performed on new SSTS installations or repair and replacement of SSTS to determine compliance with Minn. R. Chs. 7080 or 7081. SSTS found not to be in compliance with Minn. R. Ch. 7080.1500, Subp. 4A or Minn. R. Ch. 7081.0080, Subp. 3 must be repaired or replaced within ten (10) months. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored, or otherwise managed according to the operating permit.
 - (b.) It is the responsibility of the SSTS owner or the owner's agent to notify the Department one (1) calendar day prior to any permitted work on the SSTS.
 - (c.) It is the responsibility of the installer to verify the design benchmark elevation of the soil treatment area depth with a laser level for the inspector.
 - (d.) A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Department if the Department determines that the system was built in accordance with the applicable requirements as specified in the zoning Ordinance and SSTS construction permit.
 - (e.) The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within fifteen (15) calendar days of the completed inspection. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.
 - (f.) Certificates of compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the department finds evidence of noncompliance.
 - (g.) The property owner shall be responsible for elimination of defects in the SSTS. No SSTS shall be placed in service until all defects have been corrected, the necessary inspections made and a Certificate of Compliance has been issued by the Department.
- (2.) Existing systems.
- (a.) Compliance inspections of existing SSTS shall be reported on the Existing SSTS Compliance Inspection Form provided by the Department. The following conditions must be assessed or verified.
 - i. Water tightness assessment of all treatment tanks including a leakage report.
 - ii. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated Procedure described in soil verification process Section E., 2., a., (5.), (c.), above.

- iii. Sewage backup, surface seepage, or surface discharge, including a hydraulic performance report.
 - iv. A Management Plan is required for any system without a management plan when a property is transferred.
 - v. Systems in the Residential Shoreland District shall not be considered compliant unless they have a valid management plan.
 - vi. All SSTS existing prior to the effective date of this Ordinance that would require an operating permit now shall require an operating permit following a compliance inspection.
 - vii. Existing soil dispersal systems that are located under or within a structure or other impermeable surface shall be considered non-complaint and shall be repaired or replaced in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B).
 - viii. An existing SSTS System installed prior to April 1, 1996, and located in a Shoreland Zoning District shall be considered substandard if the tank capacity does not meet Minn. R. Ch. 7080.1930 and/or the soil dispersal area of the SSTS does not meet the design flows of a Classification I dwelling. Substandard systems shall be upgraded and reclassified as a Type III system, which requires an operating permit and annual reporting or repaired or replaced in accordance with Minn. R. Ch. 7080.1500, Subp. 4(B). The minimum estimated flow must be sized for a two (2) bedroom dwelling as outlined in Minn. R. Ch. 7080.1860 Table IV; or successor rules.
- (b.)The certificate of compliance must include a certified statement by a Qualified Employee or Licensed Inspector, indicating whether the SSTS is in compliance with the requirements of this Ordinance. If the SSTS is determined not to be in compliance with this Ordinance, a Notice of Noncompliance must be issued and include a statement specifying the provisions in which the SSTS does not comply with this Ordinance.
- (c.)The complete inspection report must be submitted to the Department within fifteen (15) days of the inspection.
- (d.)Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of noncompliance.
- (e.)Continued use of a treatment tank(s) where the tank(s) is/are to become an integral part of a replacement system or a sanitary sewer system requires the existing tank(s) to be inspected by the Department unless the tank(s) is/are currently operated under a valid Certificate of Compliance.

(f.) Continued use of a soil dispersal system, whether in part or in whole, must have a lifetime soil verification, where it is to become an integral part of a replacement system requires the existing soils dispersal system to be inspected by the Department unless the soil dispersal system is currently operated under a valid Certificate of Compliance.

3. Transfer of Properties.

a. Whenever a conveyance of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an SSTS occurs, the following requirements shall be met:

(1.) A compliance inspection has been performed and a Certificate of Compliance has been issued by the Department within three (3) years for SSTS older than five (5) years, or within five (5) years if the system is less than five (5) years old prior to the intended sale or transfer of the property, unless evidence is found identifying an Imminent Threat to Public Health and Safety.

(2.) The compliance inspection must have been performed by a qualified employee of the department or a licensed inspection business following procedures described in paragraph 2., b., above.

(3.) The seller of the property must disclose in writing information about the status and location of all known SSTS on the property to the buyer on the form acceptable to the Department.

(4.) If the seller fails to provide a Certificate of Compliance or the system is non-compliant, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying SSTS. The security shall be placed in escrow with a licensed and certified agent and meet the following criteria:

(a.) The amount escrowed shall be equal to either seven thousand, five hundred dollars (\$7,500) or one hundred fifty percent (150%) of a written estimate by a licensed and certified installer to install a compliant SSTS, but at no time shall the escrow be less than five thousand dollars (\$5,000).

(b.) The agent shall file with the Department at closing a signed statement on a form provided by the Department, or the form's equal, confirming the escrow of such funds. The statement shall be executed by the buyer and the seller and shall establish responsibility for the costs in excess of the escrow amount and to whom excess monies will be refunded following issuance of a Certification of Compliance and notice of release issued by the Department.

- (5.) All property conveyances subject to this Ordinance occurring during winter conditions (snow cover and/or frozen ground), when SSTS compliance cannot be determined, shall require a winter agreement that meets the requirements of paragraph (4.), above. A compliance inspection must be performed and submitted before the following June 1.
 - (6.) If upon inspection the SSTS is found to be in compliance, the Department will issue a letter to the escrow agent allowing the funds to be immediately released. If upon inspection the system is found to be non-compliant, the system shall be required to be upgraded according to Minnesota Rules, Chs. 7080-7082.
- b. The compliance portion of the Certificate of Compliance need not be completed if the sale or transfer involves the following circumstances:
- (1.) The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 - (2.) The transfer does not require filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, Subdivision 1.
 - (3.) The transfer is foreclosure, tax forfeiture, or court ordered.
 - (4.) The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this Ordinance. This subsection applies only to the original vendor and vendee on such contract.
 - (5.) Any dwellings or other buildings that are connected exclusively to a wastewater treatment system.
 - (6.) There is an existing Certificate of Compliance less than three (3) years old.
 - (7.) In the case where a contract for deed is paid off or otherwise satisfied in its entirety and the SSTS servicing the property was certified or replaced at the time the original contract for deed was entered. This exemption only applies to the original vendor and vendee on such a contract for deed.
 - (8.) When title to real property is held jointly by a husband and wife and one spouse becomes deceased and the only change that occurs is to remove the deceased spouse's name from the title.
- c. Neither the issuance of permits, certificates, or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

4. Conflict of Interest.
 - a. A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property provided the inspection business is also licensed to design and install. A licensed inspection business working on behalf of the County must not design or install a system if there is likelihood that the inspector or business will be responsible for permitting or inspecting the system or system site. A person working for or on behalf of the County shall not use the person's position to solicit for private business gain. (Minn. R. Ch. 7082.0700, Subp. 2(B)).

H. Enforcement

1. Enforcement of this Ordinance may be through criminal prosecution and/or administrative actions and/or civil judicial action.
2. Violations are Misdemeanors.
 - a. Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.
3. Administrative Enforcement Actions.
 - a. Notice of violation.
 - (1.)The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:
 - (a.)A statement documenting the findings of fact determined through observations, inspections, or investigations;
 - (b.)A list of specific violation(s) of this Ordinance;
 - (c.)Specific requirements for correction or removal of the specified violation(s); and
 - (d.)A mandatory time schedule for correction, removal, and compliance with this Ordinance.

b. Cease and desist orders.

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

4. Civil Judicial Enforcement Actions.

a. In the event of a violation or threatened violation of this Ordinance, the County may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations and the County Attorney shall have authority to commence such civil action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this Ordinance.

5. Notification of Violations to Other Agencies.

a. General provisions.

(1.) The Department may notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS that is performed in violation of the provisions of this Ordinance.

b. Straight-Pipe Act.

(1.) The Department may notify the MPCA of violations of the Straight-pipe Act of 2006 (Minnesota Statutes, Section 115.55 Subd. 11), in cases involving any system that transports raw or partially settled sewage directly to; a surface water, lake, stream, drainage system, or onto the ground surface.

6. Costs and Reimbursements.

a. Property owner responsibility.

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

b. Abatement.

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

I. Record Keeping

1. The Department shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the department's jurisdiction sorted by licensed installation businesses, and other records relevant to each system.

J. Annual Report

1. The Department shall provide an annual report of SSTS permitting activities to the MPCA for the previous calendar year. The report must include the information required by Minn. R. Ch. 7082.0040, Subp. 5.

SECTION VII. ADMINISTRATION

A. Land Use Permits

1. A Land Use Permit shall be obtained prior to erecting, installing, altering or remodeling, or moving any building, deck, patio or structure, or part thereof, in Douglas County outside the corporate limits of cities. All terms of this Ordinance shall be met before a land use permit is issued.
 - a. Exempt: Land Use Permit shall not be required for normal maintenance such as painting, siding, roofing and other similar improvements which do not involve exterior structural changes to the building.
 - b. The following structures are exempt from the zoning or land use permit requirements providing all setback requirements are met:
 - (1.) Satellite dishes, sidewalks, underground sprinkler and/or irrigation systems, hot tubs, currently licensed fish houses/dark houses, and pump houses no larger than four feet by four feet by four feet (4' x 4' x 4').
 - c. Grain bins, decks, and patios in non-platted Agricultural Districts are exempt from zoning or land use permits, provided all setback requirements are met.
2. A dwelling on a parcel of land in all zoning districts must meet the width and depth requirement of twenty-four (24) feet, but a parcel of land containing five (5) acres or more in an Agricultural District shall be exempt from the minimum width requirements of this Ordinance.
3. A permit fee payable to the County shall be required for each land use, in accordance with the Douglas County Permit and License Fee Schedule.
 - a. Permits applied for after the work has begun must comply in accordance with the provisions of the Douglas County Zoning Ordinance and permit and License Fee Schedule.
4. A land use permit issued under the terms of this Ordinance shall be valid for one (1) year from the date of issuance. The project must be completed in one (1) year from date of issuance.
5. A land use permit may be extended by yearly intervals in instances where reasonable diligent construction could not complete the proposed structure. No such time extension shall be granted if occupancy is planned before completion of the structure unless a County approved sewage treatment system is installed and operating.

6. Prior to the issuance of a land use permit, a conditional use permit may be required by the Director of Land and Resource Management for a used building being moved or placed on a tract of land.
 - a. If the building is being moved from the community with building codes, the applicant must provide written documentation from the appropriate official of that community that the building substantially meets the building code and is not currently subject to condemnation as a dilapidated or substandard building.
7. Prior to the issuance of a land use permit within all districts, the onsite sewage treatment systems must be verified for compliance with the sanitation code as adopted by reference in this Ordinance, with the exception of those buildings in the Agricultural District that are repaired or constructed which are not used for human habitation and do not contain plumbing of any sort. Prior to the issuance of a land use permit a system which is identified as nonconforming/failing must be upgraded to conform to the Minnesota Individual Sewage Treatment System standards (Minnesota Rules Chapter 7080) within a time frame not to exceed two (2) years or ten (10) months if such system is declared to be an imminent health threat.
8. A verification of connection to a central sewage treatment system, a certificate of compliance for an existing individual sewage treatment system, or an individual sewage treatment system design must be submitted and approved by the Land and Resource Management Department prior to the issuance of any land use permit for a building/structure containing plumbing. Additional requirements are set forth in Section V., Performance Standards.
9. Prior to the issuance of a land use permit within all districts, all conditional use and variance conditions on the property must be rectified.
10. No contractor or individual shall perform work upon a project requiring a permit under this Ordinance unless such permit has been issued and posted on the premises and until such contractor has first verified all conditions of the permit.
11. An elevation certificate may be required if the project is located within a flood plain as determined by FEMA maps.
12. Prior to issuance of a land use permit County Sanitarian approval may be required.
13. A Land Use Permit may be denied administratively by the Director of Land and Resource Management if it is considered to be inconsistent with the protection of health, safety, and welfare.

B. Contractors

1. License Requirements.

- a. No person, firm, or corporation shall engage in the business of excavator or landscaping contractor within Douglas County, and outside the corporate limits of cities, without obtaining a license therefore from the County Commissioners, and shall procure and post with the County Director of Land and Resource Management a bond in an amount as specified in the Douglas County Permit and License Fee Schedule in favor of the County and the public, conditioned upon the faithful compliance with the provisions of this Ordinance. Such license shall be renewable annually on or before December 31 and may be revoked or refused renewal by the County Commissioners for cause. Any construction in violation of any terms of this Ordinance shall be cause for revocation of or refusal to renew a license.
 - b. An annual license fee shall be required. Application for such license shall be made annually on a form furnished by the Director of Land and Resource Management or other designated official.
 - c. Before any license issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing to show cause why such licenses should not be revoked or refused. Notice of the time, place, and purpose of such hearing shall be in writing.
 - d. Building contractors shall be licensed with the State of Minnesota.
2. No contractor or individual shall perform work upon a project requiring a permit under this Ordinance unless such permit has been issued and posted on the premises and until such contractor has first verified all conditions of the permit.

C. Administrative Officer

1. Duties and Responsibilities.

The Board of County Commissioners hereby delegates to the Director of Land and Resource Management/representative the duties and responsibilities as follows:

- a. Administer the terms of this Ordinance subject to any required approval of the Planning Advisory Commission and County Board of Commissioners.
- b. Issue permits.
- c. Receive applications for conditional use permit requests, provide proper notification and forward, along with recommendations, to the Planning Advisory Commission.

- d. Receive applications for variance requests, provide proper notification and forward, along with recommendations, to the Board of Adjustment.
- e. Receive applications for zoning amendments, provide proper notification and forward, along with recommendations, to the Planning Advisory Commission.
- f. Inspect construction and development to insure that the standards of this Ordinance are being complied with. Land and Resource Department or its agent may require an on-site inspection of any property before, during, or after construction has begun and after completion.
- g. Provide and maintain a public information bureau relative to matters arising out of this Ordinance.
- h. Maintain the Douglas County official zoning maps.
- i. File all matters required by Minnesota Statutes 394.27, Subdivision 8, and 394.301, Subdivision 4.
- j. Perform any additional duties required in the administration and enforcement of this Ordinance and the Douglas County Subdivision Controls Ordinance.
- k. Serve as staff to the Planning Advisory Commission and Board of Adjustments.
- l. Undertake such other matters and responsibilities as the County Board of Commissioners may assign from time to time.
- m. Right of entry upon land.
- n. Notice of Abatement to landowners in violation of any provision of this Ordinance.

D. Planning Advisory Commission

- 1. Establishment.
 - a. The Board of County Commissioners hereby establishes a Planning Advisory Commission which shall be composed of five (5) members appointed and approved by the County Board. One (1) County Commissioner shall also reside on the Planning Advisory Commission as appointed by the County Board Chairperson. No more than one (1) member shall be a resident of an incorporated area of the County and each member shall serve for a one (1) year period. No more than one (1) voting member of the Planning Advisory Commission shall be an officer or employee of the County. No voting member of the Commission shall have received, during the two (2) years prior to

appointment, any substantial portion of his/her income from business operations involving the development of land within the County for urban and urban-related purposes.

- b. The following County officers or employees shall be ex-officio members of the Planning Advisory Commission without vote and shall serve at the pleasure of the County Board of Commissioners: County Attorney, County Engineer, County Surveyor, County Auditor, and County Director of Land and Resource Management.
- c. The Douglas County Director of Land and Resource Management shall act as recording secretary of the Planning Advisory Commission and the Planning Advisory Commission shall elect a chairperson from among its members and any other such officers as it deems necessary and proper.

2. Duties and Responsibilities.

- a. The Planning Advisory Commission shall review all applications for zoning amendments, conditional use permits, plans for subdivision of land and all categories of planned unit development and make its recommendations to the County Board of Commissioners. The County Board of Commissioners shall be the final authority for the approval or disapproval of all applications of zoning amendments, conditional use permits, plans for subdivision of land and all categories of planned unit developments. The Planning Advisory Commission may review all comprehensive plan and official controls and any plans for public land acquisition and development sent to the County for that purpose by any local unit of government or any State or Federal agency and shall make its recommendations to the County Board of Commissioners. The Planning Advisory Commission shall hold public hearings pursuant to law to assist it in making any decision or recommendation. The Planning Advisory Commission may view the property before or after the public hearing.

3. Removal and Vacancies.

- a. Removal.

(1.)The County Board of Commissioners may, by a majority vote, remove any members of the Planning Advisory Commission from office for non-performance of duty or misconduct in office. Non-performance of duty shall include non-attendance at two (2) consecutive meetings of the Planning Advisory Commission without a valid reason.

b. Vacancies.

(1.) Vacancies on the Planning Advisory Commission shall be filled by a majority vote of the County Board of Commissioners on the proposed appointment for the remainder of the term of office.

E. Board of Adjustment

1. Establishment.

a. A Board of Adjustment is hereby authorized to be established by the County Board. The Board of Adjustment shall consist of five (5) members appointed by the County Board of Commissioners. At least one (1) member shall be selected from the membership of the Planning Advisory Commission and no more than one member shall be appointed from residents living in the incorporated territory of the County. The Board of Adjustment shall elect a chairperson and vice chairperson from among its members and shall appoint a secretary who need not be a member of the Board. Each member shall serve for a one (1) year period. The meeting of the Board shall be held at the call of the chairperson and at such other times as the Board in its rules of procedure has specified. The Board shall keep a public record of its transactions, findings, and determinations.

2. Duties and Responsibilities.

a. The Board of Adjustment shall have the authority to issue variances, hear and decide appeals from, and review any order, requirement, decision, or determination made by any administrative official charged with enforcing this Ordinance, order the issue of permits for buildings or areas designated for future public use on an official map, and perform such other duties as required by this Ordinance. The Board may view the property before or after the public hearing.

3. Removal and Vacancies.

a. Removal.

(1.) The Board of County Commissioners may, by a majority vote, remove any member of the Board of Adjustments from office for non-performance of duty or misconduct in office. Non-performance of duty shall include non-attendance at two (2) consecutive meetings of the Board of Adjustment without a valid reason.

b. Vacancies.

(1.) Vacancies on the Board of Adjustment shall be filled by majority vote of the County Board of Commissioners on the proposed appointment for the remainder of the term of office.

F. Zoning Amendments

1. The County Board may adopt amendments to the Zoning Ordinance and zoning map in relation both to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Policies Plan or changes in conditions in the County. The following procedures shall be followed in issuing zoning amendments:
 - a. The Planning Advisory Commission, County Board of Commissioners, or property owner may initiate an amendment. Property owners wishing to initiate an amendment which would affect their property shall make application to the Director of Land and Resource Management, no amendments will be made unless the request is adjacent to property of a similar zoning classification, central sewer is servicing the property or the request is in accordance with the Comprehensive Plan. The application shall be accompanied by a fee in the amount specified in the Douglas County Permit and License Fee Schedule to be used for the cost of processing the application.
 - b. The Director of Land and Resource Management shall set a date for the hearing of the application before the Planning Advisory Commission and cause notice of such hearing to be properly published in the legal newspaper ten (10) days prior to the hearing. The Director of Land and Resource Management shall also give written notification of the hearing to the governing bodies of all cities located within the County, the affected Town Board and governing body of a city within two (2) miles of the affected property, and to property owners of record within one-half (.5) mile of the affected property.
 - c. The hearing on the amendment application shall be held by the Planning Advisory Commission at the first regular meeting after the requirements of the proper notice are complied with.
 - d. The Planning Advisory Commission shall make its recommendation to the County Board of Commissioners within ninety (90) days after the date of the hearing.
 - e. The County Board of Commissioners shall take action on the amendment application within ninety (90) days following receipt of recommendations by the Planning Advisory Commission.
 - (1.) Said action taken by the County Board shall be by four-fifths (4/5) vote of its members. The person making the application shall be notified of the County Board of Commissioners' action. A certified copy of any amendment shall be filed with the County Recorder or Registrar of Titles.
 - f. No application of a property owner for an amendment to the text of the Ordinance or the zoning map shall be considered by the Planning Advisory Commission within the one (1) year period following a denial of such request, except the Director of Land and Resource

Management may permit a new application if, in the opinion of the Director of Land and Resource Management, new evidence or a change of circumstances warrant it.

G. Conditional Use Permit

1. Criteria for Granting Conditional Use Permits.

- a. In granting a conditional use permit, the Douglas County Board shall consider the advice and recommendations of the Planning Advisory Commission and the effect of the proposed use upon the health, safety, and general welfare of occupants or surrounding lands. Among other things, the following findings may be considered:

(1.)The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

(2.)The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

(3.)The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

(4.)The use in the opinion of the County Board of Commissioners is reasonably related to the overall needs of the County and to the existing land use.

(5.)The use is consistent with the purposes of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

(6.)The use is in conformance with the Land Use Plan of the County.

(7.)The use will not create a traffic hazard or congestion.

- b. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures of this subsection along with the following additional evaluation criteria and conditions:

(1.)Evaluation Criteria. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:

(a.)The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

(b.)The visibility of structures and other facilities as viewed from public waters is limited.

- (c.) The site is adequate for water supply and on-site sewage treatment.
 - (d.) 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.
- c. Conditions Attached to Shoreland Conditional Use Permits. The Planning Advisory 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.) Increased setbacks from the ordinary high water level.
 - (2.) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
 - (3.) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- d. Conditions attached to Adult Uses Conditional Use Permits. The Planning Advisory 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 shall include, but are not limited to, a requirement that no adult use shall be located within five hundred (500) feet of:
- (1.) Any area zoned as Residential District or Residential Shoreland District.
 - (2.) Any school, as defined in Minnesota Statutes, Section 120.101.
 - (3.) Any church.
 - (4.) Any daycare facility.
 - (5.) Any residential or nonresidential program, as defined in Minnesota Statutes, Section 245A.02.
 - (6.) Any hotel or motel.
 - (7.) Any public park.
 - (8.) Hospitals as defined by Minnesota Statutes, Section 144.50.
 - (9.) Nursing homes as defined by Minnesota Statutes, Section 144.50.

2. Procedure.

- a. Any proposed conditional use shall be presented to the Planning Advisory Commission for the determination of its applicability to the zoning district wherein permitted. In support of such determination of applicability, the Planning Advisory Commission may require preliminary architectural drawings or sketches on all buildings or groups of buildings, showing the front, side and rear elevations of the proposed building, structure or other improvements, and the proposed location of such buildings on the lot as the same will appear after the work has been completed. Such drawings or sketches shall be considered by the Planning Advisory Commission in an endeavor to ascertain that such buildings, structures, and other improvements shall be so designed or constructed that they will not be of unsightly, undesirable, or obnoxious appearance. The following procedure shall be used in issuing conditional use permits:

- (1.)The applicant for a conditional use permit shall file an application in writing in the office of the Director of Land and Resource Management and pay a fee as listed in the Douglas County Permit and License Fee Schedule when the application is filed.
- (2.)The Director of Land and Resource Management shall refer the application to the Planning Advisory Commission for a public hearing and cause notice of such hearing to be properly published in the legal newspaper not less than ten (10) days prior to the hearing. Property owners within one-quarter (1/4) mile of the affected property or the ten (10) properties nearest the affected property (whichever would provide notice to the greatest number of owners) shall be given notice of the date the Planning Advisory Commission will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notice shall be given the governing body of any city the incorporated limits of which lie within two (2) miles of the proposed conditional use and to the Town Board of the Township wherein the conditional use is proposed.
- (3.)The applicant or a representative shall appear before the Planning Advisory Commission and answer any questions concerning the proposed conditional use. The Planning Advisory Commission shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to prevent such adverse effects.
- (4.)The recommendations of the Planning Advisory Commission shall be referred to the County Board of Commissioners within ninety (90) days after the public hearing and placed on the agenda of the Board at its regular meeting following referral from the Planning Advisory Commission.

- b. The County Board of Commissioners shall take action on the application within ninety (90) days after receiving the report of the Planning Advisory Commission. If it grants the conditional use permit, the County Board of Commissioners may impose any special conditions it considers necessary to protect the public health, safety, and welfare. An

appeal from any decision of the County Board of Commissioners may be taken by any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, officer, department, board or bureau of the municipality to the Court of Appeals by petition for writ of certiorari within sixty (60) days as delineated in Minnesota Statutes, Section 606.01, and applicable court rules, as amended.

- c. A certified copy of the granted conditional use permit shall be filed with the County Recorder or Registrar of Titles by the Director of Land and Resource Management.
- d. No application for a conditional use permit shall be resubmitted for a period of one (1) year from the date that the request is denied except the Director of Land and Resource Management may allow a new application if in the opinion of the Director of Land and Resource Management new evidence or a change in circumstances warrant it.
- e. Work on any project requiring a conditional use permit shall begin within one (1) year of the issuance of the permit and completed within eighteen (18) months of permit issuance or it shall expire.
- f. If any conditions of the conditional use permit are not adhered to, the conditional use permit shall be nullified.
- g. A conditional use permit shall be deemed to authorize only one (1) particular use and shall expire if the conditional use ceases for more than one (1) year for any reason.

H. Variances

1. Criteria for Granting Variances.

- a. The Board of Adjustment shall have the exclusive power to order the granting of variances from the terms of this Ordinance, including restrictions placed on non-conformities. Variance may only be granted when the applicant establishes that there are practical difficulties, as defined herein, in complying with the terms of this Ordinance and that the granting of such variance(s) will be keeping with the spirit and intent of this Ordinance and the goals and policies of the comprehensive plan. It shall be the burden of the applicant to demonstrate a practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this Ordinance, the Board of Adjustment shall not approve any variance. No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. Specifically, the Board of Adjustment must find that each of the following criteria are satisfied:

(1.) That the request is in harmony with the general purpose of Douglas County Land Use Ordinance and the goals and policies of the Comprehensive Plan; and

- (2.) That the applicant is proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance; and
 - (3.) That the issuance of the variance(s) will maintain the essential character of the locality; and
 - (4.) That the alleged practical difficulty is due to circumstances unique to the property; and
 - (5.) That the need for the variance was created by actions other than of the landowner or prior landowners; and
 - (6.) That economic considerations alone shall not constitute practical difficulties that justify the granting of a variance; and
 - (7.) The practical difficulty cannot be alleviated by a method other than a variance; and
 - (8.) The granting of the variance will not adversely impact the environmental health or quality of the location or a specific resource.
- b. Additional considerations for after-the-fact applications. In the case of an after-the-fact variance application, the following criteria will also be used and weighed to determine if the variance should be granted so long as the criteria listed in Subd. a., above, are first found to be satisfied.
- (1.) Why did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? Did the applicant act in good faith? Why or Why not?
 - (2.) Did the applicant attempt to comply with the law by obtaining the proper permits; and
 - (3.) Did the applicant obtain a permit from another entity that violated the law; and
 - (4.) Did the applicant make a substantial investment in the property; and
 - (5.) Did the applicant complete the repairs/construction before the applicant was informed of the impropriety; and
 - (6.) Would the minimum benefits to the county appear to be far outweighed by the detriment the applicant would suffer if forced to remove the structure.
- c. The Board of Adjustment may impose conditions in the granting of variances. Conditions must be directly related and roughly proportional to the impact created by the variance from the requirements of terms of this zoning Ordinance.

2. Procedure.

- a. Any proposed variance shall be presented to the Board of Adjustment for determination. In support of such determination of applicability, the Board of Adjustment may require preliminary architectural drawings or sketches on all buildings or groups of buildings, showing the front, side, and rear elevations of the proposed building, structure or other improvements, and the proposed location of such buildings on the lot as the same will appear after the work has been completed. Such drawings or sketches shall be considered by the Board of Adjustment in an endeavor to ascertain that such buildings, structures, and other improvements shall be so designed or constructed that they will not be of unsightly, undesirable, or obnoxious appearance. The following procedure shall be used in granting variances:
 - (1.)The applicant for a variance shall file an application in writing in the office of the Director of Land and Resource Management and pay a fee as listed in the Douglas County Permit and License Fee Schedule when the application is filed.
 - (2.)The Director of Land and Resource Management shall refer the application to the Board of Adjustment for a public hearing and cause notice of such hearing to be properly published in the legal newspaper not less than ten (10) day prior to the hearing. Property owners within five hundred (500) feet of the affected property or the ten (10) properties nearest the affected property (whichever would provide notice to the greatest number of owners) shall be given notice of the date the Board of Adjustment will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notice shall be given the governing body of any city the incorporated limits of which lie within two (2) miles of the proposed variance and to the Town Board of the Township wherein the variance is proposed.
 - (3.)The applicant or a representative shall appear before the Board of Adjustment and answer any questions concerning the proposed variance.
- b. A decision shall be made by the Board of Adjustment within ninety (90) days after the public hearing. All decisions by the Board of Adjustment in granting variances shall be final except that any aggrieved person or persons or any department, board or commission of the jurisdiction of the State shall have the right to appeal to the District Court in the county in which the land is located on questions of law and fact within thirty (30) days of the decision of the Board of Adjustment.
- c. A certified copy of the granted variance shall be filed with the County recorder or Registrar of Titles by the Director of Land and Resource Management.
- d. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required below in Section I., 2., shall also include the Board of Adjustment's summary of

the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.

- e. No application for a variance shall be resubmitted for a period of one (1) year from the date that the request is denied, except the Director of Land and Resource Management may allow a new application if, in the opinion of the Director of Land and Resource Management, new evidence or a change in circumstances warrant it.
- f. Work on any project requiring a variance shall begin within one (1) year and shall be completed within eighteen (18) months of the issuance of the variance or it shall expire.

I. Notifications to the Department of Natural Resources

- 1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- 2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten (10) days of final action.

J. Appeals

- 1. General.
 - a. An appeal from any order, requirement, decision or determination of any administrative official charged with enforcing this Ordinance may be made to the Board of Adjustment. An appeal must be filed within thirty (30) days after the time the administrative determination is made. The appeal stops all proceedings on the action appealed unless the Board of Adjustment certifies that the stay would cause imminent threat to life or property. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may direct the issuance of a permit.
- 2. Procedure.
 - a. Appeals shall be filed with the Director of Land and Resource Management.
 - b. The Director of Land and Resource Management shall refer the appeal to the Board of Adjustment for a public hearing and cause notice of such hearing to be properly published in the legal newspaper not less than ten (10) days prior to the hearing. Property

owners within five-hundred (500) feet of the affected property or the ten (10) properties nearest the affected property (whichever would provide notice to the greatest number of owners) shall be given notice of the date the Board of Adjustment will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notice shall be given the governing body of any city the incorporated limits of which lie within two (2) miles of the appeal and to the Town Board of the Township.

- c. The applicant or a representative shall appear before the Board of Adjustment and answer any questions concerning the appeal.
- d. A decision shall be made by the Board of Adjustment within ninety (90) days after the public hearing. All decisions by the Board of Adjustment in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons or any department, board of commission of the jurisdiction of the State shall have the right to appeal to the District Court in the County in which the land is located on questions of law and fact within thirty (30) days after the approval or denial of the variance.
- e. A certified copy of any order resulting from the Board's decision on an appeal shall be filed with the County Recorder or Registrar of Titles by the Director of Land and Resource Management.

K. Enforcement and Penalties

1. Policy Statement.

- a. Through systematic and fair enforcement of this Ordinance, it is the intent of the Douglas County Board of Commissioners to promote the safety and wellbeing of the citizens of this county by enforcing reasonable land use regulations on conduct that is potentially injurious or detrimental to the value and enjoyment of property. While it is the responsibility of every person to be aware of laws enacted in their jurisdiction, Douglas County, through the Land and Resource Management Office, will make every effort to educate people as to the regulations present in this Ordinance. By enforcing this Ordinance against not only landowners, but also contractors, builders, landscapers and excavators, it is the intent of the Board to encourage those who make a living through the modification of real property in Douglas County to be aware of the provisions of this Ordinance, follow those provisions, and advise their clients accordingly.

2. Enforcement.

- a. Who may be charged with a violation: This Ordinance may be enforced against any person who violates any of its provisions. This includes a person who owns the property on which the violation takes place and knowingly allows that violation to occur, a person who has authority or implies that he or she has the authority to direct actions on the

property and knowingly allows or encourages a violation to occur, or any person who in any way acts in accomplishing a violation, whether physically, by arrangement, or direction, or otherwise.

- b. Enforcing agency: This Ordinance shall be administered and enforced by the Director of Land and Resource Management or an agent thereof who is hereby designated the enforcing officer.
- c. Penalties: Any person who violates any of the terms and provisions of this Ordinance, including the failure to comply with the stipulations or conditions on a conditional use permit, variance, or plat, shall, after approval by the Douglas County Attorney's office, be charged with a misdemeanor. Each day that a violation occurs or continues shall constitute a separate offense. All fines paid as a result of violations of this Ordinance shall be paid to the County and shall be credited to the general revenue fund.
- d. Civil Remedies: In addition to any possible criminal penalties imposed for violations of this Ordinance, Douglas County reserves the right to enforce this Ordinance through any legal civil means, including but not limited to civil penalties, injunctions, law suits and the withholding of deeds for the transfer of any property right, if that property right was conveyed in violation of this Ordinance. Entities that are licensed by Douglas County for landscaping, construction, excavation or other functions may have that license revoked under Section VII.,L.
- e. Citations for violations:
 - (1.)Who may issue: Any certified peace officer having probable cause to believe any person has violated any provision of this Ordinance may issue a citation to said entity, citing the provision that has been violated, and directing the person to appear in Court, or pay the appropriate fine if a fine schedule is adopted by District Court.
 - (2.)Process: Citations shall be issued to the person alleged to have committed the violation either by personal delivery or by registered or certified mail. In the case of a public, private or municipal corporation, the citation shall be issued to any officer of agent, expressly or impliedly authorized to accept such citation. Citations shall be made out in quadruplicate. One copy shall be issued to the person alleged to have committed the violation, one copy shall be filed with the County Land and Resource Management Director, one copy shall be filed with the County Attorney's Office, and one copy shall be filed with the District Court, in Douglas County.
 - (3.)Form: Citations shall be on such form(s) as approved by the County and shall contain at least the following:
 - (a.)The name and address of the person alleged to have committed the violation and, when known, the owner or person in charge of the premises at which the violation occurs.

- (b.) The date, place, and lot/parcel number of the zoning violation.
 - (c.) A short description of the violation followed by reference to the section of this Ordinance violated.
 - (d.) The name of the person who issued the citation.
 - (e.) The date and place at which the person receiving the citation shall appear and a notice that if such person does not respond, a warrant may be issued for such person's arrest.
 - (f.) Such other information as the County District Court may specify.
- f. No arrests or detention: No representative of the County shall be permitted to physically arrest or take into custody any violator. In the event that the person cited fails to appear in court, the citation shall be forwarded by the Court Administrator to the County Attorney who shall issue a long form complaint for review by a judge prior to any warrant being issued.
 - g. Additional remedies: The penalties and provisions provided herein are in addition to and supplemental to any other provisions authorized by this Ordinance or authorized by law, and shall not be considered to exclude other remedies.
 - h. Threatened violations: In the event of a violation or a threatened violation of any provision of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the County Board of Commissioners, or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such actions.

L. Denial, Refusal to Renew, Suspension and/or Revocation Procedures

- 1. Authority.
 - a. The Douglas County Board of Commissioners, or in the case of a variance the Douglas County Board of Adjustment, may, by Order, deny, refuse to renew, suspend or revoke the application, license, variance, or conditional use permit of a person if the Board finds that it is in the public interest in that based upon a preponderance of the evidence.
 - b. The person violated a statute, Ordinance, or condition that the Board is empowered to enforce, including all conditions set forth on variances, licenses and permits;
 - c. The person committed a violation, as stated above, on a previous application, license, variance or permit;

- d. The person employed fraud or deception obtaining license, permit, or variance or renewal or reinstatement of the same;
 - e. A person failed to meet any requirement for the issuance or renewal of the person's license, permit or variance; or
 - f. The person has committed an act, engaged in conduct, or committed practices that may result or may have resulted, in the opinion of the Board, in an immediate threat to the public.
2. Procedure for Denial of Applications.
- a. The procedure for denial of an application for a license, variance, or permit shall be the procedure stated generally throughout this Ordinance. The foregoing reasons for denial of the license shall be in addition to any other criteria listed throughout this Ordinance for the granting and/or denial of licenses, variances, and permits.
3. Procedure for Revocation, Suspension, or Refusal to Renew.
- a. Jurisdiction: Upon obtaining information that will indicate a basis for revocation, suspension, or refusal to renew, the Director of Land and Resource Management or the Director's designee shall initiate proceedings for revocation, suspension, or refusal to renew. The matter shall be heard by the authority that originally granted the applicable license, variance, or permit. A decision on whether to revoke, suspend, or refuse to renew a permit or license that was originally issued by the Director of Land and Resource Management shall be made by the Director of Land and Resource Management.
 - b. Hearing: The issuing authority shall establish a time, date, and location for a hearing for revocation, suspension, or refusal to renew, at the request of the Director of Land and Resource Management or the Director's designee. The Director or designee shall mail notice of the date of the hearing to the affected party no less than ten (10) days prior to the date of the hearing. At the hearing, the issuing entity will take such evidence as it deems appropriate. In all cases, the affected party shall be entitled to present such evidence as they deem appropriate either personally, or through an attorney. Should the affected party fail to appear either in person, or through counsel, the issuing entity shall still have the authority to take evidence and make a decision upon the request for revocation, suspension, or refusal to renew.
 - c. Findings at hearing: Should the issuing authority find, by a preponderance of the evidence, that the affected party has failed to comply with the conditions set forth on the variance, license, or permit, the issuing party shall make that finding and state the reasons for its determination.

- d. Remedies: Upon finding that the affected party has failed to comply with the conditions set forth in the license, variance, or permit, the issuing entity will then ascertain the appropriate sanction to impose. Sanctions include revocation, suspension for a stated period of time, or the refusal to renew the license. Suspensions may also be conditional upon the conduct of the affected party. A license, variance, or permit may be suspended until such time as the affected party comes into compliance with the terms of the license, variance, or permit. The criteria for determining the appropriate sanction shall include, but are not limited to, the length of time of the violation, the severity of the violation, and risk to the health, welfare, and safety of the neighboring residents and/or community as a whole.

4. Appeals.

- a. Appeals from the decision of the Douglas County Board of Adjustment shall be made to the District Court. Appeals of decisions of the Douglas County Board of Commissioners shall be made by Writ of Certiorari to the Minnesota Court of Appeals, unless other law specifically grants the aggrieved party the authority to appear in District Court.
- b. Appeals of decisions of the Director of Land and Resource Management shall be taken to the Douglas County Board. All requests for appeals of the decision of the Director shall be made in writing and shall be presented to the Douglas County Auditor within ten (10) days of the mailing of the Director's decision to the affected party. Appeals to the Douglas County Board shall be scheduled by the Chair of the Board, or the Chair's designee. At an appeal of the decision of the Director, the Board shall hear an explanation for the decision from the Director or the Director's designee, and shall hear the basis for requesting the Board to overturn the Director's decision from the appealing party or that party's legal representative. The Board may take such evidence as it deems appropriate, including but not limited to reasonable hearsay. The Board shall either sustain the decision of the Director, or overturn the decision of the Director, and it shall state its reasons on the record for its decision. Any appeal of the Douglas County Board's decision as to the propriety of the Director's actions may be taken by Writ of Certiorari to be specifically stated in statute or state law.

SECTION VIII. DEFINITIONS

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

The word **SHALL** is mandatory; the word **MAY** is permissive.

Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular.

The word **LOT** shall include the words **PIECE** and **PARCEL**.

ABANDONED MOTOR VEHICLE -

- A. One that has remained for a period of more than forty-eight (48) hours on public property, illegally parked or missing vital component parts.
- B. One that has remained more than forty-eight (48) hours on private property without the consent of the person in control at such property.
- C. One that is in an inoperable condition such that it has no substantial potential further use consistent with its usual functions unless it is kept in an enclosed garage or storage building.
- D. One that is voluntarily surrendered by its owner to a unit of government.
- E. Classic or pioneer cars and vehicles on the premises of junk yards or automobile salvage yards shall not be defined as abandoned motor vehicles.
- F. One that has been voluntarily unlicensed and is not licensed for use on a public street.

ABANDONED SIGN - Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

ACCESSORY BUILDING OR FACILITY - Any non-dwelling building that is detached from a principal building. A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

ACCESSORY USE - A use subordinate to the principal use on a lot and used for purposes customarily incidental to those of the principal use.

ADULT BOOKSTORE - A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, or motion picture film if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" or the barter, rental or sale of instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities, "Substantial or significant portion of items," for purposes of this Ordinance, shall mean more than fifteen (15) percent of usable floor area.

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

ADULT CONVERSATION/RAP PARLORS - A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT HEALTH/SPORTS CLUB - A health/sports club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT MASSAGE PARLOR - A massage parlor which restricts minors by reason of age, or which provides the service of "massage," if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT MINI-MOTION PICTURE THEATER - A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT MOTION PICTURE THEATER - A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT STEAM ROOM/BATHHOUSE FACILITY - A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing,

relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT USES - Adult uses include adult bookstores, adult motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities"; or "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

AGGREGATED PROJECT - Aggregated projects are large WECS installations which are developed and operated in a coordinated fashion, but which may 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 in the aggregated project.

AGRICULTURAL BUILDING - For the purposes of this Ordinance, an agricultural building shall imply any building existing or erected on land used principally for agricultural purposes, with the exception of dwelling units.

AGRICULTURAL LAND - Land which is or has been historically tilled for the purpose of raising grains, fruits, or vegetables.

AGRICULTURE - The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, aquaculture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

ALLEY - Any strip of land, publicly or privately owned, set aside for public access to abutting property.

ANIMAL FEEDLOT - Is a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered to be animal feedlots.

ANIMAL LAGOON - A biological treatment system designed and operated for biodegradation, to convert organic matter such as feed, bedding, and body byproducts in animal wastes to more stable end products.

ANIMAL MANURE - Is poultry, livestock, or other animal excreta with feed, bedding, and other materials.

ANIMAL UNIT - A unit of measure used to compare differences in the production of animal wastes which has as a standard amount of waste produced on a regular basis by a slaughter steer or heifer. Units are calculated by dividing the average animal weight for a species by one thousand (1,000) pounds.

APPURTENANCE - That which belongs to something else; an adjunct; an appendage; an accessory.

AQUACULTURE - The cultivation of the natural produce of water.

AS BUILT - Means drawings and documentation specifying the final in-place location, size, and type of all system components. These records identify the results of material testing and describe conditions during construction.

AS BUILTS - Are “record drawings” as defined below.

AVENUE - Any strip of land, publicly or privately owned, set aside for public access to abutting property.

AWNING - See “Canopy.”

BALLOON SIGN - A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter.

BASEMENT - A portion of a building/structure located partly underground but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground. Lower level having exposed windows no higher than three and one half (3.5) feet.

BED AND BREAKFAST FACILITY - An owner-, manager- or operator-occupied dwelling unit, other than a motel, hotel or boarding house, where lodging and breakfast are provided to transient guests for compensation.

BEDROOM - A part of the inside of a private/vacation home that is divided from other areas by walls and a doorway and that has its own floor and ceiling that is furnished primarily as sleeping quarters, containing a bed or furniture that can convert to a bed, and having more than one egress.

BEST MANAGEMENT PRACTICES (BMPs) - Means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

BLADE ARC - The arc created by the edge of the rotor blade that is farthest from the nacelle.

BLOCK - That property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage. An area of land consisting of one or more lots, which is bounded by rights-of-way, another subdivision, a river, lake or combination thereof.

BLUFF - A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than eighteen (18) percent over a distance for fifty (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 (25) feet 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 (25) feet or more above the ordinary high water level averages thirty (30) percent or greater.
- D. The slope must drain toward the water body.

BLUFF IMPACT ZONE - A bluff and land located within thirty (30) feet from any part of a bluff.

BOARDING HOUSE - A dwelling or portion thereof that is arranged or used as short- or long-term living quarters for three (3) or more individuals that do not constitute a family, and as a gainful business or as part of a business enterprise.

BUFFER - Unused parcel of land between adjoining property and kept in a sightly manner.

BUILDABLE AREA - The area of a lot which is sufficient to accommodate the construction of water supply systems, sewage treatment systems, buildings, driveways and other customary improvements to a lot, while still providing for adequate setbacks. Buildable area shall not include land below the ordinary high water level of a waterbody, wetlands, bluffs, non-buildable easements, minimum yard setbacks, buildable portions of land that are non-contiguous to each other, or when the County Board otherwise determines that an area is unsuitable for proposed or likely improvements. Buildable areas must include sufficient area for two (2) standard sewer systems. An area shall not be considered in the calculations of buildable area if it is not at least fifty (50) feet in width and length.

BUILDING/SETBACK LINE - The line that represents the minimum distance required by this Ordinance between any lot line and a structure.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM - An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

BUILDING - Any structure or appurtenance which is built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. This shall include manufactured housing.

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 flat roof or average height of the highest gable of a pitched or hipped roof.

BUILDING SEWER - The building sewer is that part of the horizontal portion of the building drainage system extending from the building drain to its connection with the septic tank and carrying the sewage of but one building.

BUILDING WIDTH - The main part of a building, excluding window wells, breezeways, and porches.

CABINET SIGN - Any wall sign that is not of channel or individually mounted letter construction.

CANOPY - A roof-like cover, including an awning, often of fabric, plastic, metal, or glass, which projects from the wall or roof of a building- usually over a door, entrance, or window; or a freestanding or projecting cover above an outdoor service area, such as at a gasoline service station. A marquee is not a canopy.

CANOPY SIGN - Any sign attached to the underside or constructed upon a canopy or awning.

CARTWAY - A land access road, generally two (2) rods in width, established by specific action of a town board to provide access to otherwise land-locked property. Public maintenance may be provided at the direction of the town board.

CENTERLINE - A real or imaginary line that is equidistant from the surface or sides of a road as driven.

CENTRAL SEWAGE TREATMENT SYSTEM - A central sewage treatment system shall mean only a sewage treatment system managed or operated by any governmental authority, except in case of Planned Unit Development, the sewage treatment system may be managed and operated by the Homeowner's Association.

CENTRAL WATER DISTRIBUTION SYSTEM - A central water distribution system managed or operated by any governmental authority, except in case of Planned Unit Development, the water system may be managed and operated by the Homeowner's Association.

CERTIFICATE OF COMPLIANCE - A document written after an individual sewage treatment inspection certifying that a system is in compliance with applicable requirements at the time of the inspection.

CHANGEABLE COPY SIGN, NON-ELECTRONIC - A non-electronic sign or portion of a sign which is characterized by interchangeable letters and figures.

CHANGEABLE COPY SIGN, ELECTRONIC - An electronic sign or portion thereof with the characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign. Such signs include, but are not limited to, signs using cathode-ray tube (CRT), light-emitting diode (LED) displays (including organic LED screens), plasma displays, liquid-crystal displays (LCD), projection screens or other similar technologies.

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.

CLASS V INJECTION WELL - SSTS that are designed to receive sewage or nonsewage from a two-family dwelling or greater or receive sewage or nonsewage from another establishment that serves more than twenty (20) persons per day, are regulated under Code of Federal Regulations, title 40, parts 144 and 146.

CLEAR-CUTTING - The removal of an entire stand of timber and natural vegetation.

CLUSTER SYSTEM - A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

COLLECTION - The gathering or consolidating of abandoned motor vehicles and other scrap metal at regional collection sites.

COLLECTOR - A person holding a valid license from the Pollution Control Agency and/or the County to engage in the collection of abandoned motor vehicles and other scrap metal.

COLLECTOR SEWAGE TREATMENT SYSTEM - A soil treatment system using a common drain field serving two or more dwellings or resort units.

COMMERICAL ESTABLISHMENT - A business with a private SSTS serving food, beverage, and lodging establishments that are required to obtain a license under Minnesota Statutes, Section 157.16, Subdivision 1; or successor statutes, including manufactured home

parks and recreational camping areas licensed according to Minnesota Statutes, Chapter 327; or successor statutes.

COMMERCIAL PLANNED UNIT DEVELOPMENTS - Uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented (i.e. hotel/motel accommodations, resorts, recreational equipment and camping parks, and other primarily service-oriented activities are commercial planned unit developments.)

COMMERCIAL SPEECH - Speech advertising a business, profession, commodity, service or entertainment.

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 Department of Natural Resources.

COMMON DISCHARGE LOCATION - Means a common point where water would flow naturally or where with minor modifications, the surface water would flow to a single point.

COMMON PLAN OF DEVELOPMENT OR SALE - Means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

COMMUNITY SOLAR ENERGY SYSTEM - A solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, under the provisions of Minn. Statutes 216B.1641 or successor statute. A community solar garden may be either an accessory or a principal use.

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, as defined in the Minnesota County Planning Act, and includes any unit or part of such plan separated adopted and any amendment to such plan or parts thereof.

CONDITIONAL USE - A land use or development as defined by Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning Ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

CONDOMINIUM - A form of individual ownership within a multi-family building with a joint responsibility for maintenance and repairs. In a condominium, each apartment or townhouse is

owned outright by its occupant, and each occupant owns a share of the land and other common property of the building.

CONSTRUCTION ACTIVITY - Includes small construction activity and means a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and nonvegetative), or the existing soil topography that may result in accelerated storm water runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples can include clearing, grading, filling, and excavating. Construction activity includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five (5) acres or more.

CONSTRUCTION PERMITS - Permits issued for construction, same as land use permit.

CONTROLLED ACCESS LOT - Lots intended to provide access to public waters or as recreation areas for use by others by easement or percentage of lot.

COUNTY - Douglas County, Minnesota, or Douglas County Board of Commissioners.

CROWDING INDICATOR - Acres of water divided by the sum of potential lot development plus commercial planned unit development units.

CUMULATIVE VERTICAL SOIL TREATMENT AND DISPERSAL ZONE - A thirty-six (36) inch accumulation of suitable soil either continuous or in multiple segments that provide final treatment and dispersal of septic tank effluent.

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. For the purposes of building setbacks, a deck shall be considered to be a structure.

DEMOLITION DEBRIS - Solid waste resulting from the demolition of buildings, roads, and other man-made buildings, including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts. Demolition debris does not include asbestos wastes.

DEPARTMENT - The Douglas County Land and Resource Management Department.

DESIGN FLOW - The daily volume of wastewater for which an onsite/cluster system is designed to treat and discharge.

DEWATERING - The removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. It may require Minnesota Department of Natural Resources permits to be appropriated, and if contaminated, may require MPCA permits to be discharged.

DIGITAL SIGN - See “Changeable copy sign, electronic.”

DIRECTIONAL SIGN - A sign whose message is intended to guide the circulation of persons and motorists within a site or to a particular off-site location.

DIRECTOR – the Douglas County Land & Resource Management Director

DOCK - A narrow platform extending water ward from the shoreline intended for ingress and egress for moored watercraft or to provide access to deeper water for swimming, fishing, or other water oriented recreational activities.

DOMESTIC FERTILIZER - Animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth; or animal manure that is used as compost, to enhance soil conditions, or specialized plant beds.

DOMESTIC STRENGTH WASTE - Waste typical of a residential source with average influent concentrations no greater than: BOD5 one hundred seventy (170)mg/l; TSS sixty (60)mg/l; and Oil and Grease twenty-five (25)mg/l or effluent values equal to or less than treatment level C.

DRAINAGEWAY - Any natural or artificial water course, including but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, waterways, gullies, rains, or washes, in which waters flow in a definite direction or course, either continually or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

DWELLING HEIGHT - The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of flat roof or average height of the highest gable of a pitched or hipped roof.

DWELLING, MULTIPLE FAMILY - A residence designed for or occupied by three (3) or more families, either wholly (attached) or partially a part of a larger structure (detached), with separate housekeeping and cooking facilities.

DWELLING, SINGLE FAMILY - A freestanding (detached) residential structure consisting of one (1) or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed or occupied as living quarters for one (1) family or household.

DWELLING SITE - A designated location for residential use by one (1) or more persons using temporary or movable shelter, including camping and recreational equipment sites.

DWELLING, TWO-FAMILY - A dwelling designed, arranged, or used so as to provide separate cooking, sleeping, living and sanitary facilities for two (2) families. Separation may be by, but shall not be limited to, a wall, floor or door (lockable or not).

DWELLING, TEMPORARY DURING CONSTRUCTION - A lawfully established single-family dwelling that continues to be used as the primary residence during the construction of a new dwelling.

DWELLING, TEMPORARY FAMILY SUPPORTIVE CARE - A second dwelling temporarily placed on a lot or parcel already occupied by a legally established principal dwelling to accommodate the care of a family member(s) or an on-site licensed home-healthcare provider for a family member(s).

DWELLING UNIT - Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one (1) or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

EARTHEN BASIN - An impoundment made by excavation of earth fill for the temporary storage of animal or other agricultural waste and not designed for the treatment of waste.

EASEMENT - A grant by a property owner for the use of land for the purpose of constructing and maintaining utilities; including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways, and gas lines.

ENERGY DISSIPATION - Means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

EROSION - The detachment and movement of soil or rock fragments by wind, water, ice, or gravity.

EROSION PREVENTION - The measures employed to prevent erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

ESSENTIAL SERVICES - Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith but not including buildings. For the purpose of this Ordinance, the word "buildings" does not include "structures" for essential services.

EXCAVATING OR EXCAVATION - Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the resulting conditions.

EXISTING GRADE - Ground level prior to any alterations.

EXPANDED DISCHARGE - A discharge that changes in volume, quality, location, or any other manner after January 1, 1988, such that an increased loading of one or more pollutants results. In determining whether an increased loading of one or more pollutants would result from the proposed change in discharge, the agency shall compare the loading that would result from the proposed discharge with the loading allowed by the agency on January 1, 1988.

EXTRACTIVE USE - The use of land for surface or sub-surface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

FAILURE TO PROTECT GROUNDWATER - At a minimum, a SSTS that does not protect groundwater such as a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance described in Minn. R. Ch. 7080.1500, Subps. 4(D) and 4(E); and a system not abandoned in accordance with Minn. R. Ch. 7080.2500. The determination of the threat to groundwater for other conditions must be made by a qualified employee or a licensed inspection business.

FAMILY - An individual, or two (2) or more persons, each related by blood, marriage, adoption, foster care arrangement, court order, or any unrelated person(s) who reside(s) therein as though a member(s) of the family, living together as a single housekeeping unit, but as distinguished from a group occupying a boarding house, lodging house or hotel.

FARM - A tract of land for producing crops and/or raising livestock/poultry.

FEEDLOT EXPANSION - Any change in the feedlot operation the results in an increase in animal units.

FEEDLOT, EXISTING - Operational at the date the feedlot Ordinance amendment is adopted.

FEEDLOT, NEW - An animal feedlot constructed and operated on 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 years or more.

FEEDLOT OFFICER - An individual, appointed by the Douglas County Board of County Commissioners, who is responsible for administrating the Douglas County Zoning Ordinance.

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

FILL - Any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved to a new location and shall include the resulting conditions.

FILLING - The introduction of material onto a lot or the movement of material from one (1) location within a lot to fill a cavity or excavation.

FINAL STABILIZATION - Either:

- A. All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed;
- B. For individual lots in residential construction by either: (a) The homebuilder completing final stabilization as specified above, or (b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off sidewalks and driveways.); or
- C. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land) final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters and drainage systems, and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria one (1) or two (2) above.

FISH HOUSE AND/OR DARK HOUSE - A shelter/structure used for angling or spearing on the ice on any water.

FLAG - Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole – which itself either freestanding or attached to a building, awning, canopy, or other structure – so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

FLAG LOT - A parcel of land shaped like a flag and flagpole; the staff or pole being a narrow strip of land not meeting the minimum width requirement and which may provide vehicular and pedestrian access to a street, and the flag being the portion of the lot located primarily to the rear of other lots.

FLOOR AREA - The sum of the gross horizontal area of all floors/levels of a building/structure.

FOOTPRINT - The area on a surface covered by something.

FREESTANDING SIGN - Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

GARAGE - A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles and equipment. A space within a building shall be considered part of the dwelling space, and not the attached garage, if it shares a wall with the dwelling, is separated by a full wall from the garage portion, and is not accessible from the outside by an overhead door or other opening 7 feet in width or greater.

GARBAGE - Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

GENERAL CONTRACTOR - The party who signs the construction contract with the owner to construct the project described in the final plans and specifications. Where the construction project involves more than one contractor, the general contractor will be the party responsible for managing the project on behalf of the owner. In some cases, the owner may be the general contractor. In these cases, the owner may contract an individual as the operator who would become the Co-Permittee.

GOOD NEIGHBOR BROCHURE – A brochure to be given to guests that includes a summary of the County’s regulations relating to private/vacation home rentals; local rules or ordinances related to lakes, aquatic invasive species, and water use; and best practices for neighborly behavior.

GRADE - The average of the finished levels at the center of the exterior walls of the building.

GRADING - The movement of material to change a soil level.

GROUND-MOUNT SOLAR ENERGY SYSTEM - A solar energy system mounted on a rack or pole that sits on the ground or has its own foundation and is not attached to a building.

GUEST COTTAGE - A structure used as a dwelling unit that may contain sleeping spaces and bathroom facilities, but not housekeeping or cooking facilities, in addition to those provided in the primary dwelling unit on a lot. A guest cottage shall be considered as an accessory structure in relation to overall square footage.

HANGING SIGN - Any sign that is suspended from the underside of a horizontal plane surface and is connected to this surface and/or to the surface of structural elements supporting that surface.

HARDSHIP - Property in question cannot be put to a reasonable use if used under conditions allowed by the official controls. The plight of the property owner 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.

HEAVY MANUFACTURING - The manufacturing and assembly of machines.

HOME OCCUPATION - Any occupation of a service character which is clearly secondary to the main use of the premise as a dwelling and does not change the character thereof and has limited exterior evidence of such a secondary use.

ICE RIDGE - A modification to the topographic characteristics of the shore resulting from a water basin's expanding and contracting ice sheet and consisting of a linear, nonvegetated mound of soil generally parallel to the water edge.

ILLUMINATED SIGN - Any sign which contains or uses an element designed to emanate light or any sign which has lighting directed upon it to increase visibility.

IMMINENT THREAT TO PUBLIC HEALTH AND SAFETY - At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; sewage tanks with unsecured, damaged, or weak maintenance access covers; or any other situation with the potential to immediately and adversely affect or threaten public health or safety. The determination of protectiveness for other conditions must be made by a qualified employee inspector or a licensed inspection business.

IMPERVIOUS SURFACE - Any surface not able to absorb liquid. Examples of, but not limited to, concrete, bituminous, tar, roof top, wood decking and modular stone.

INDUSTRIAL USE - The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

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

ISTS - An individual sewage treatment system as defined in Minn. R. Ch. 7080.1100, Subp. 41.

JUNK YARD - Land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled; including, but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles.

LAND USE PERMIT - A permit for the erection and/or alteration of any structure controlled by this Ordinance issued to ensure compliance with all requirements of this Ordinance.

LANDING - A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features not to exceed thirty-two (32) square feet in area. A landing is located at the top, bottom, or between flights of a stairway and should not be construed with the definition of a deck.

LANDSCAPING - To arrange, improve, develop or decorate the natural vegetation or ground.

LARGE RESORT CABIN - Resort cabins over seven hundred (700) square feet and/or those serving as more than one (1) dwelling unit.

LEGALLY ESTABLISHED NONCONFORMING SIGN - Any sign and its supporting structure lawfully erected prior to the effective date of this Ordinance which fails to conform to the requirements of this Ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this Ordinance and which does not comply with this Ordinance shall be deemed to be a legal, nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

LICENSED MPCA PRACTITIONER - An individual or business which provides services described in Minn. R. Chs. 7080 through 7082; or successor rules, and is licensed by the commissioner of the MPCA under the appropriate license category in Minn. R. Chs. 7083.0720 to 7083.0800; or successor rules, allowing the provision of those services.

LIGHT MANUFACTURING - The manufacturing of parts.

LIVESTOCK - Domestic animals kept for the use on a farm and raised for sale and profit, to include cattle, sheep, swine, horses intended for slaughter, mules, farmed cervidae, llamas, ratitae, bison (buffalo), and goats.

LODGING ESTABLISHMENT – A building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be, a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public. For the purpose of this ordinance, lodging establishment shall also include: boarding establishment, hotel, motel, private/vacation home rental, and resort.

LOT - A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.

LOT AREA - The gross lot area is the area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by the waters of a duly recorded lake or river.

LOT, CORNER - A lot situated at the junction or abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment on a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

LOT COVERAGE - The area of a lot occupied by the principal buildings, accessory buildings and other areas that do not have natural vegetation.

LOT DEPTH - The horizontal length of a straight line drawn from the midpoint of the front lot line of the lot to the midpoint of the rear lot line.

LOT LINE - The dividing line between two (2) platted lots or as further established by the Douglas County Zoning Ordinance.

LOT LINE, FRONT - The front of the lot shall be, for the purposes of complying with this Ordinance, that boundary abutting a public right-of-way or, if no public right-of-way, the boundary from which access to the lot is gained. For flag lots created by metes and bounds subdivision consistent with Section 1.5 of the Douglas County Subdivision Controls Ordinance, the front lot line shall be the boundary line closest to the public right-of-way from which access to the lot is gained. For lots that abut two or more rights-of-way, the front lot line shall be determined by the Land and Resource Director, who shall consider the wishes of the landowner, the layout of the proposed dwelling or other improvements on the lot, and the layout of improvement on adjacent lots.

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

LOT LINE, RIPARIAN - The boundary or boundaries of a lot which are defined by the ordinary high water level of a lake or stream. If a lot includes land located below the ordinary high water level, the lot line, for the purposes of this Ordinance, shall be the ordinary high water level.

LOT LINE, SIDE - Any lot line of a lot that is not a front or rear lot line.

LOT WIDTH - The shortest horizontal distance between the side lot lines of a lot measured at any point between the front lot line and the rear lot line. For the purposes of meeting minimum lot width requirements throughout this Ordinance, lot width shall be measured in a straight line rather than along a road right-of-way. For riparian lots, the lot width shall also be the horizontal distance measured between lot corners at the ordinary high water level and at the minimum building setback line from the water body.

MALFUNCTION - The partial or complete loss of function of an SSTS component, which requires a corrective action to restore its intended function.

MANAGEMENT PLAN – A plan that requires the periodic examination, adjustment, testing, and other operational requirements to meet system performance expectations and potentially lower risk to human and environmental health, including a planned course of action in the event a system does not meet performance expectations.

MANUFACTURED HOME - A structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (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.

MANUFACTURED HOME PARK - A parcel of land under single ownership which has been planned and improved for the placement of manufactured home unit(s) for non-transient use.

MANUFACTURED HOME UNIT - One (1) manufactured home.

MANURE SPILL - Any release of manure on a public road that would impact the safe passage of traffic.

MANURE STORAGE AREA - An area associated with an animal feedlot where animal manure or runoff containing animal manure is stored until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage for the purpose of this Ordinance.

MARQUEE SIGN - Any sign painted, mounted, constructed or attached in any manner, on a marquee.

METES AND BOUNDS DESCRIPTION - 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 direction and length of the lines forming the boundaries of the property.

MINI STORAGE - Any building for rental purposes which provides individual storage units or areas which may be accessed only by the individual who is storing materials in the unit or area.

MINOR REPAIR - The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concepts of the SSTS.

MISDEMEANOR - Misdemeanor means a criminal infraction punishable by up to ninety (90) days incarceration, a seven hundred dollar (\$700) fine, or both.

MIXED MUNICIPAL SOLID WASTE - Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludge, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

MONUMENT SIGN - Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign.

MOTION SIGN - Any sign which part or in total rotates, moves, or creates the appearance of movement through changing light of color effect or intermittent illumination or animation, or appears to quiver or vibrate in light or while reflecting heat wave.

MPCA - The Minnesota Pollution Control Agency.

MSTS - A mid-sized subsurface sewage treatment system as defined in Minn. R. Ch. 7081.0020, Subp. 4.

MUNICIPALITY - Any incorporated city or township within the boundaries of Douglas County, Minnesota.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) - The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code Title 33, Sections 1317, 1328, 1342, and 1345.

NES CLASS A - Those NES lakes that display the physiology, morphology and other physical and chemical characteristics common to larger lakes.

NES CLASS A CATEGORY 1 (NES A-1) - Those Class A lakes that have a maximum depth of fifteen (15) feet or greater.

NES CLASS A CATEGORY 2 (NES A-2) - Those Class A lakes that are less than fifteen (15) feet in depth and have a surface acre to shoreline miles ratio of over forty (40).

NES CLASS A CATEGORY 3 (NES A-3) - Those Class A lakes that are less than fifteen (15) feet in depth and have a surface acre to shoreline miles ratio of under forty (40).

NES CLASS B - Those NES lakes that predominantly display the physical characteristics of Type 3 or greater wetlands.

NEW DISCHARGE - A discharge that was not in existence before January 1, 1988.

NON-COMMERCIAL SPEECH - Dissemination of message not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

NONCONFORMING USE - Any use which, after the passage of this Ordinance, does not meet the requirements of this Ordinance.

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.

NONRIPARIAN LOT - A tract of land not located adjacent to a lake, wetland, reservoir, watercourse or flowage.

NORMAL WETTED PERIMETER - The area of a conveyance, such as a ditch, channel, or pipe that is in contact with water during flow events that are expected to occur once every year.

NOTICE OF NONCOMPLIANCE - A document written and signed by a qualified employee or licensee after a compliance inspection that gives notice that an individual sewage treatment system is not in compliance.

NOTICE OF TERMINATION - Notice to terminate coverage under this permit after construction is complete, the site has undergone final stabilization, and maintenance agreements for all permanent facilities have been established, in accordance with all applicable conditions of a permit.

NRCS - National Resources Conservation Service.

ON-SITE SEWAGE TREATMENT SYSTEM - A sewage treatment system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated, the word "system" as it appears in the Ordinance, means "individual sewage treatment system".

OPERATOR - The person (usually the general contractor), designated by the owner, who has day-to-day operational control and/or the ability to modify project plans and specifications related to the SWPPP. The person must be knowledgeable in those areas of the permit for which the operator is responsible, and must perform those responsibilities in a workmanlike manner.

ORDINARY HIGH WATER LEVEL - 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 flowage, the ordinary high water level is the operating elevation of the normal summer pool.

OTHER ESTABLISHMENTS - Any public or private structure other than a dwelling or a portion of a dwelling used for any business purpose that generates sewage that discharge to a SSTS.

OUTDOOR STORAGE - The storage of goods, materials, equipment, manufactured products and similar items in an area not fully enclosed by a building.

OVERNIGHT GUEST - A person that is boarding overnight at a private/vacation home rental, hotel, motel, bed and breakfast, or resort.

OWNER - Any individual, firm, association, syndicate, partnership, corporation, trust, or other legal entity having sufficient property interest in a property to commence and maintain proceedings under this Ordinance, or the owner of record.

PARK TRAILER - A trailer that: Does not exceed eight and one-half (8.5) feet in width but is no larger than four hundred (400) square feet when the collapsible components are fully extended or at maximum horizontal width that is licensed for over the road and that is used for temporary living quarters except that in planned unit developments only, the directives in Section V., K., 1., f., (1.) shall control.

PARKING LOT - A suitably surfaced and permanently maintained area sufficient in size to store more than six (6) vehicles.

PARKING SPACE, ON-SITE - An on-site parking space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than eight and one-half (8.5) feet and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives.

PASTURE - Areas where grass or other growing plants are used as food for grazing. A pasture shall be deemed a livestock feedlot, poultry lot, or other animal lot when the concentration of livestock, poultry or other animals is such that a vegetation cover is not maintained except in the immediate vicinity of temporary supplemental feeding or watering devices.

PATIO - An open recreation area that is made out of any material within one (1) foot of pre-existing grade. A patio may not have attached railings, trellises, seats or other features that extend more than one foot above pre-existing or natural grade.

PERMANENT COVER - Final stabilization. Examples include grass, gravel, asphalt, and concrete.

PERMITTEE - A person or persons, firm, or governmental agency or other institution that signs the application and is responsible for compliance with the terms and conditions of permit.

PERSON - A natural person over the age of 5 years, that is patronizing, staying, or visiting a private/vacation home either as the renter of the facility or a guest of the renter; or an individual, firm partnership, association, or corporation or other entity including the United States government, any interstate body, the state, and any agency, department, or political subdivision of the state.

PLANNED UNIT DEVELOPMENT - A type of development characterized by a unified site design for a number of dwelling units or sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational equipment parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

PLAY HOUSE - Permit required - considered an accessory structure.

POLE SIGN - Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

PORTABLE SIGN - Any sign which is manifestly designed to be transported by vehicle or moved by hand, including those placed or mounted on a vehicle, by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground. Portable signs include sandwich and other signs designed to be easily carried or worn by a person, signs pulled, placed in or on a vehicle and signs on the side of semi-trailers, box trucks, or other such equipment.

PRACTICAL DIFFICULTY - A situation that arises whereby a property owner proposes to use property in a reasonable manner not permitted by the county zoning Ordinance or other official controls; that the plight of the landowner is due to circumstances unique to the property and not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

PRINCIPAL BUILDING OR STRUCTURE - The building or structure in which the primary use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings or structures, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

PRIVATE/VACATION HOME RENTAL - Any home, cabin, condominium, bedroom or similar building that is advertised as, or held out to be, a place where sleeping accommodations are furnished to the public on a nightly, weekly, or for less than a 30-day time period, and is not a bed and breakfast, resort, hotel or motel.

PROJECTING SIGN - Any sign which is affixed to a building, wall, awning, or canopy in such a manner that it displays more than one (1) sign surface or where its leading edge extends more than twelve (12) inches beyond the surface of such building or wall face.

PROPERTY LINE - The division between two (2) parcels of land, or between a parcel of land and the street or road.

PROTECTED WATERS INVENTORY MAP - The official Minnesota Department of Natural Resources map setting forth the inventoried waters and wetlands.

PUBLIC WATERS - Any waters defined as:

- A. Water basins assigned a shoreland management classification by the commissioner under Sections 103F.201 to 103F.221, except wetlands less than eighty (80) acres in size that are classified as natural environment lakes;

- B. Waters of the state that have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;
- C. Meandered lakes, excluding lakes that have been legally drained;
- D. Water basins previously designated by the commissioner for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;
- E. Water basins designated as scientific and natural areas under Section 84.033;
- F. Water basins located within and totally surrounded by publicly owned lands;
- G. Water basins where the State of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;
- H. Water basins where there is a publicly owned and controlled access that is intended to provide for public access to the water basin;
- I. Natural and altered watercourses with a total drainage area greater than two square miles;
- J. Natural and altered watercourses designated by the commissioner as trout streams; and
- K. Public water wetlands, unless the statute expressly states otherwise.
- L. Public waters are not determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water that was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union.

PROTECTED WATERS - Those lakes, streams and wetlands within the definition of public waters as defined by Minnesota Statute 103G.005 as amended.

PUMP HOUSE - A structure not exceeding 4' x 4' x 4' in size that is used for housing of a well and associated plumbing and wiring.

QUALIFIED CONTRACT INSPECTOR - Inspector, licensed by the State of Minnesota to perform the duties related to onsite sewage treatment, who may be hired by the Director to conduct inspections and soil verifications of any new or existing SSTS. A contract inspector shall not perform any subsurface sewage treatment system design or installation work within Douglas County while working for the County as a contract inspector.

QUALIFIED EMPLOYEE - An employee of the state or local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the

individual's employment duties and is a certified SSTS professional in the specialty areas applicable to the work being conducted.

RECORD DRAWINGS - A set of drawings which reasonably document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system. Record drawings were previously known as "as built."

RECREATIONAL CAMPGROUND - A parcel of land under single ownership which has been planned and improved for the placement of recreational equipment, park trailers or tent unit(s).

RECREATIONAL EQUIPMENT - Travel trailers including those which telescope or fold down, chassis mounted campers, house cars, motor homes, tent trailers, slip in campers, park trailers and converted buses that provide temporary human living quarters.

REFUSE - Putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleaning, market and industrial solid wastes, and including sewage treatment wastes which are in solid form.

RESIDENCE/RESIDENTIAL USE - Any building or dwelling which includes, or is intended to include, sleeping spaces, cooking areas, eating areas and sanitation facilities so as to allow for human occupation. When used in this ordinance, the word residential shall mean that a dwelling or building is being used as a residence.

RESIDENTIAL PLANNED UNIT DEVELOPMENT - Use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented (i.e. residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.)

RESORT - An establishment that includes buildings, campgrounds, lodges, structures, dwelling units/sites, homes, enclosures or any part thereof kept, used, maintained or advertised as or held out to the public to be, a place where sleeping accommodations are furnished to the public and primarily to those seeking recreation, for periods of one (1) day, one (1) week, or longer, and having for rent two (2) or more homes, cabins, units, campsites or enclosures. All cabins, rooms, dwelling units/sites or enclosures must be included in the resort rental business. The entire parcel(s), lot(s), or tract(s) of land must be controlled and managed by the licensee.

RESORT UNIT - One family occupying a single housekeeping unit and using common cooking facilities.

RESTRICTIVE LAYER - Layer in the soil treatment system area as shown by redoximorphic features, altered structure, bedrock, or a geologic aquifer formation.

RETAIL SALES AND SERVICE - Establishments which deal directly with the ultimate consumer for whom the goods or services are furnished.

RIGHT OF WAY - The strip of land over which a public road is built, to include the entire area dedicated or set aside.

RIPARIAN LOT - A tract of land located immediately adjacent to a lake, wetland, reservoir, watercourse or flowage.

ROOF LINE - The upper-most edge of the roof or in the case of an extended façade or parapet, the upper-most height of said façade.

ROOF SIGN, CONSTRUCTED - Any sign erected and constructed wholly on and above the roof of a building.

ROOF SIGN, PAINTED - Any sign painted on the roof surface of a building.

ROOFTOP SOLAR ENERGY SYSTEM - A solar energy system mounted on the roof of a building.

RUBBISH - Non-putrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

RURAL ROAD - A public road constructed with side slopes and ditches to provide for drainage and snow storage. A rural road may include short isolated sections of curb and gutter without underground storm sewer.

SATURATED SOIL - The highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features or other information.

SCRAP METAL - Scrap metal, other than abandoned motor vehicles; including, but not limited to, discarded metal in the form of machinery, appliances and motor vehicle parts.

SEDIMENTS - Material of any kind that may run-off into a lake or public waterway.

SEDIMENT CONTROL - The methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

SEMIPUBLIC 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 FEATURES - Feature identified in Section V., S. of the Douglas County Zoning Ordinance.

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.

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

SEWAGE TREATMENT SYSTEM - A septic tank and soil treatment area or other individual or cluster type sewage treatment system as described and regulated in this Ordinance.

SEWER PERMIT- A permit issued for new construction, replacement, alteration, or extension of an individual sewage treatment system or collector system.

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.

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 (50) percent of the structure setback.

SHORELAND - Land located within the following distances from public waters: One thousand (1000) feet from the ordinary high water level of a lake, pond, or flowage; and three hundred (300) feet from a river or stream, or the landward extent of a floodplain designated by Ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

SHORELAND ALTERATIONS - Grading and filling in shoreland areas or any alteration of the natural topography of a shoreland subject to the provisions of this Ordinance.

SIDEWALL HEIGHT - The vertical distance between the lowest exposed floor and the point where the wall meets the roof truss. Wall dormers, whose facial plane is integral with the facial plane of the wall that it is built into, shall be considered part of the sidewall height if they are greater than 4 feet in width. The lower portion of a “tuck-under” garage shall not be considered part of the sidewall height provided only one wall is more than 25% exposed and the exposed wall is no more than twice the allowable sidewall height.

SIGN - Any letter, word, or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires, and structures which is displayed in the public view for informational or communicative purposes.

SIGN, ADVERTISING - A sign which directs attention to a business, commodity service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located.

SIGN, BILLBOARD - Sign structures that are periodically re-faced with paper.

SIGN FACE - The surface of the sign upon, against, or through which the message of the sign is exhibited.

SIGN, FREESTANDING - A portable sign whose supporting structures are not embedded in the ground, affixed to a wall or side of a building or to a roof.

SIGN, GROUND - A device whose supporting structures are embedded in the ground.

SIGN, PROFESSIONAL - A sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such sign is located.

SIGN, ROOF - A device whose supporting structures are affixed to a roof.

SIGN STRUCTURE - Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

SIGN, SURFACE AREA OF - 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 not forming an integral part of the display. Only one side of a double-face or type sign structure shall be used in computing total surface area.

SIGN, WALL - A device whose supporting structures are affixed to a wall or side of a building.

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, Section 307.08. A 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.

SITE OPERATOR - The operator of a regional collection site, whether the operation be by a unit of government or by a person under contract with a unit of government to operate the site.

SMALL CONSTRUCTION ACTIVITY - Construction activities including clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five (5) acres.

SMALL RESORT CABIN - Those cabins up to seven hundred (700) square feet and not serving as more than one (1) dwelling unit.

SMOKE - Small gas-borne particles resulting from incomplete combustion predominantly, but not exclusively, of carbon, ash and other combustible materials that form a visible plume in the area.

SOIL PIT - An excavation into the soil of sufficient depth to allow for assessment of variability in the soil physical properties. The pit should have at least one face that extends through the entire profile cross-section, may range from three (3) to over seven (7) feet in depth, and is large enough for two (2) people to examine the soil profile.

SOLAR COLLECTOR - A device, structure, or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

SOLAR ENERGY SYSTEM - A mechanical system whose principal purpose is to harvest energy by transforming direct sunlight into another form of energy by capturing energy in a collector and converting or storing the energy through mechanical, electrical, or chemical means.

SOLAR FARM - A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the principal purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

SOLID WASTE - Garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludge, in solid, semi-

solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.

SPECIFIED ANATOMICAL AREAS - Less than completely or opaquely covered: human genitals; pubic region; buttocks; female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES - Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

SSTS - A subsurface sewage treatment system as defined in Minn. R. Ch. 7080.1100, Subp. 82.

SSTS CONSTRUCTION - Any excavation or preparation of soil for the purpose of placing a sewage tank(s), soil dispersal system and/or any related piping within or upon said excavation or soil preparation.

STABILIZED - The exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.

STANDARD PLATES - General drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.

STATE - The State of Minnesota.

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 (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

STOP WORK ORDER - An order issued by the Director of Land and Resource Management or his/her designee to stop work on an illegal, nonconforming or nonpermitted use or structure.

STORM WATER - Under Minn. R. 7077.0105, subp. 41(b) storm water, “means precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

STORM WATER POLLUTION PREVENTION PLAN - A plan for storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

STRING LINE TEST - A method of establishing a structure setback line by using the closest adjacent points of the principal structure on the two (2) immediately adjacent lots. In the event that there is no structure of like use on one of the immediately adjacent lots, the normal building setback line shall be used.

STRUCTURE - Any building or appurtenance, including decks and patios, except aerial or underground utility lines, such as: sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

SUBDIVISION - The division or re-division of a lot, tract or parcel of land, regardless of how it is to be used, into two (2) or more lots designated by plat, metes and bounds, registered land survey, auditors plat or other accepted means.

SUBDIVISION, MAJOR - All subdivisions not classified as exceptions to the subdivision Ordinance, metes and bounds subdivisions, or minor subdivisions. Major subdivisions are required where the subdivision of two (2) or more lots requires any new or extension of the public rights-of-way or the extension of public facilities including sanitary sewer or water or the creation of any new public improvements. Major subdivisions shall include the re-subdivision of the previously approved subdivisions where rights-of-way or the public facilities are being relocated. Major subdivisions shall also be required in sensitive areas as defined in Section V., S., of the Douglas County Zoning Ordinance.

SUBDIVISION, MINOR - Any subdivision where a platted recorded lot is being split into a maximum of five (5) lots, or a maximum of five (5) lots are being combined into four (4) or fewer lots. All resulting lots must meet the minimum lot size and area requirements listed in the applicable zoning district regulations. The minor subdivision process shall not be allowed in the following situations:

- A. Any lot within an approved Planned Unit Development (PUD).
- B. Any lot within the Shoreland Residential District, as defined in Section VII of the Douglas County Zoning Ordinance.
- C. Any unplatted lands where the subdivision includes either:
 - 1. The dedication of the additional right-of-way requiring street construction; or
 - 2. The dedication of the public easements or the granting of private easements; or

3. A change in existing streets, alleys, water mains, sewer mains, or other major public improvements.
- D. Where new streets, utilities, or other public improvements will be needed other than to directly serve the lots created and to provide a direct connection to an existing and approved system.
- E. Where sensitive features exist, as defined in Section V., S., of the Douglas County Zoning Ordinance.

SUBSTANDARD SSTS SYSTEM - An existing SSTS not meeting the system requirements defined in this Ordinance and Minn. R. Chs. 7080-7083.

SURFACE WATERS - All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems.

SWEPT AREA, WECS - The area of wind energy capture for a WECS, measured by the area within the WECS' blade arc.

TEMPORARY EROSION PROTECTION - Methods employed to prevent erosion. Examples of temporary cover include: straw, wood fiber blanket, wood chips, and erosion netting.

TEMPORARY LIVING QUARTERS - A structure is considered to provide temporary living quarters if it:

- A. Is not used as the residence of the owner or occupant;
- B. Is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities; and
- C. Is self-propelled or towed on the public streets or highways incidental to the recreational or vacation activities.

TIER 1 FEEDLOT - A feedlot consisting of fifty to four hundred and ninety-nine (50-499) animal units.

TIER 2 FEEDLOT - A feedlot consisting of five hundred to nine hundred and ninety-nine (500-999) animal units.

TIER 3 FEEDLOT - A feedlot consisting of one thousand to two thousand, five hundred (1000-2,500) animal units.

TOE OF THE BLUFF - The lower point on a bluff where there is, as visually observed, a clearly identifiable break in the slope from a gentler to a 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 a fifty (50) foot segment, measured on the ground, with an average slope exceeding eighteen percent (18%).

TOP OF THE BLUFF - 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 is apparent, the top of the bluff shall be determined to be the upper end of a fifty (50) foot segment, measured on the ground, with an average slope exceeding eighteen percent (18%).

TOWER - Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

TOWNSHIP - A unit of local government.

TOXIC AND HAZARDOUS WASTES - Waste material, including, but not limited to, poison, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner to conserve the environment and protect public health and safety.

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

TRANSMISSION SERVICES - Public utility service such as electric power lines of a voltage of 35 kV or greater, or bulk gas or fuel being transferred from station to station and not intended for en route consumption.

TRAVEL TRAILER - A trailer, mounted on wheels that:

Is designed to provide temporary living quarters during recreation, camping, or travel.

- A. Does not require a special highway movement permit based on its size or weight when towed by a motor vehicle.
- B. Has a gross trailer area of less than three hundred twenty (320) square feet.
- C. Does not exceed eight (8) feet in width.

TREATMENT LEVEL - Treatment system performance levels as defined in Minn. R. Ch. 7083.4030, Table III, for testing of proprietary treatment products.

TYPE I SYSTEM - An SSTS that meets all flow requirements and other sizing requirements of this Ordinance and Minn. R. Chs. 7080-7083, has three feet of separation, and uses original soils.

TYPE II SYSTEM - Holding tanks, privies, and SSTS on lots within the General Floodplain Zoning District.

TYPE III SYSTEM - An SSTS specifically designed to overcome site deficiencies and size restrictions. A Type III is intended to meet state tank effluent quality standards as found in Minn. R. Ch. 7080.2150 subp, 3., K.

TYPE IV SYSTEM - An SSTS designed to include a registered pretreatment device and incorporate pressure distribution and time dosing, allowing application of a higher Soil Hydraulic Loading Rate and reduced soil separation distances.

TYPE V SYSTEM - An SSTS that does not meet the definition for a Type I – Type IV system and/or uses non-registered treatment technology. These systems require a licensed engineer and advanced designer.

UNCLASSIFIED PUBLIC ROADS - A public right-of-way which affords primary means of access to abutting property.

UNDERGROUND WATERS - Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground. The term ground water shall be synonymous with underground water.

URBAN ROAD - A public road constructed (actual or planned) with a curb and gutter street section to control drainage rather than with side ditches. To be determined by the Douglas County Engineer.

USE - The purpose for which land or premises or building therein is designated, arranged, or intended, or for which it is or may be occupied or maintained.

USE, ACCESSORY - A use clearly incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

USE, PERMITTED - A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

USE, PRINCIPAL - The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may either be permitted or conditional.

VACATION HOME RENTAL – *See* Private/Vacation Home Rental, above.

VARIANCE - The exercise of county government authority to grant relief from the literal application of the terms and standards of the Zoning or Subdivision Ordinance and allows the use of a property, in a reasonable manner, that would otherwise be forbidden by the strict interpretation of terms and standards such as lot size, setbacks, etc.

VIOLATION - Violation means a failure to comply with any directive of this Ordinance or with any conditions lawfully placed on any property right by Douglas County, by one of its agents or by the State of Minnesota, including but not limited to, conditions or stipulations on a conditional use permit, variance, plat or any other permit.

VITAL COMPONENT PARTS - Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle; including, but not limited to, the motor, drive train and wheels.

WALL SIGN - Any sign attached parallel to the outside wall of a building, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

WATER-ORIENTED BUSINESS SIGN - A sign which is directed and placed by a permitted or legal nonconforming business so as to be visible to boaters, swimmers, or other recreational users of a waterbody.

WATERS OF THE STATE - (as defined in Minn. Stat. § 115.01, subd. 22) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

WATER QUALITY VOLUME - One half (.5) inch of runoff from the new impervious surfaces created by this project and is the volume of water to be treated in the permanent storm water management system.

WECS - WIND ENERGY CONVERSION SYSTEM - An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, and substations that operate by converting the kinetic energy of wind into electrical energy. The energy maybe used on-site or distributed into the electrical grid.

WECS, SMALL - A WECS with a swept area of no more than 200 square meters and a total height of no more than 130 feet, except when a greater height is allowed as provided for in this ordinance.

WECS, LARGE - A WECS with a swept area greater than 200 square meters and a total height typically greater than 130 feet.

WECS, TOTAL HEIGHT - The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

WETLAND - Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- A. Have a predominance of hydric soils.
- B. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
- C. Under normal circumstances support a prevalence of such vegetation.

WINDOW SIGN - Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

YARD - An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. The yard extends along the line at right angles to such lot line to a depth or width specified in the setback regulations for the use proposed.

YARD, FRONT - The portion of the yard on the same lot with the principal building located between the front line of the building and the front lot line and extending for the full width of the lot. The front lot line is coterminous with the right-of-way line of the public street which the lot abuts, Riparian lots must consider the lake side the front yard.

YARD, REAR - The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot. Riparian lots must consider rear yard opposite the front yard.

YARD, SIDE - The yard extending along the side lot line between the front and rear yards.

ZONING AMENDMENT - A change authorized by the County, either in the allowed use within a district or in the boundaries of a district.

ZONING DISTRICT - An area or areas within the limits of the County for which the regulations and requirements governing use are uniform.

ZONING MAP - The official Douglas County zoning map setting forth zoning districts.

SECTION IX. SEPARABILITY, SUPREMACY AND EFFECTIVE DATE

A. Separability

1. Every section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision or part thereof.

B. Supremacy

1. When any condition imposed by any provision of this Ordinance on the use of land or buildings/structures or on the bulk of buildings/structures is either more restrictive or less restrictive than similar conditions imposed by any provision of any other community Ordinance or regulation, the more restrictive conditions shall prevail.

C. Effective Date

1. This Ordinance shall be in force and effect upon the due passage and publication in the manner provided by law.

Adopted by the Douglas County Board of Commissioners this 19th day of August, 2003, by the following vote:

YES: 5 – Withers, Anderson, Olson, Mingus and Jennissen

NO:

Effective date: September 18, 2003.

Bryan Withers, Chairperson
Douglas County Board of Commissioners

Adopted changes regarding definition of Park Trailer by the Douglas County Board of Commissioners this 12th day of November, 2003, by the following vote:

YES: 5 – Withers, Anderson, Olson, Mingus and Jennissen

NO:

Effective date: December 12, 2003.

Bryan Withers, Chairperson
Douglas County Board of Commissioners

Adopted changes regarding Recreational Equipment/Vehicle/Park Trailers by the Douglas County Commissioners on the 22nd day of June, 2004, by the following vote:

YES: Anderson, Mingus, Olson, Withers and Johnson

NO:

Effective date: July 28, 2004.

Bryan Withers, Chairperson
Douglas County Board of Commissioners

Adopted changes regarding Natural Environment Shoreland regulations by the Douglas County Commissioners on the 28th day of December, 2004, by the following vote:

YES: Anderson, Olson, Withers, Mingus and Johnson

NO:

Effective date: January 14, 2005.

Bryan Withers, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes regarding PUD regulations by the Douglas County Board of Commissioners on the 29th day of March, 2005, by the following vote:

YES: Anderson, Bales, Olson, Mingus, and Johnson
NO:

Effective date: April 6, 2005.

Paul C. Anderson, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes regarding sensitive features and storm water management – impervious surfaces by the Douglas County Board of Commissioners on August 1, 2006, by the following vote:

YES: Anderson, Mingus, Olson, Johnson and Bales
NO:

Effective date: August 1, 2006.

John C. Mingus, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes regarding definitions, centerline road setback and minimum buildable area by the Douglas County Board of Commissioners on August 15, 2006, by the following vote:

YES: Anderson, Mingus, Olson, Johnson and Bales
NO:

Effective date: August 15, 2006.

John Mingus, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes regarding storm water management impervious surfaces by the Douglas County Board of Commissioners on September 26, 2006, by the following vote:

YES: Anderson, Mingus, Olson, Johnson and Bales

NO:

Effective date: September 26, 2006.

John Mingus, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes relating to requirements to lot line, front and for metes and bounds subdivisions and road frontage (flag lots), by the Douglas County Board of Commissioners on January 9, 2007, by the following vote:

YES: Anderson, Salto, Olson, Johnson and Bales.

NO:

Effective date: January 9, 2007.

Gerald Johnson, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes relating to septic/sanitation, as well as reorganization and renumbering of the Zoning Ordinance by the Douglas County Board of Commissioners on April 24, 2012, by the following vote:

YES: Salto, Johnson, Bales, and Olson Anderson - Absent

NO:

Effective date: August 1, 2012.

Gerald Johnson, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes regarding signs by the Douglas County Board of Commissioners on June 11, 2013, by the following vote:

YES: Johnson, Bales, Stratton, Meyer and Olson

NO:

Effective date: June 11, 2013.

Dan Olson, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes regarding dwellings and definition of Boarding House by the Douglas County Board of Commissioners on May 6, 2014, by the following vote:

YES: Bales, Johnson, Olson, Stratton and Meyer

NO:

Effective date: May 6, 2014.

Bev Bales, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes relating to temporary second dwelling by the Douglas County Board of Commissioners on February 3, 2015, by the following vote:

YES: Bales, Johnson, Stratton and Meyer Miller-Absent

NO:

Effective date: February 3, 2015.

Charlie Meyer, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes in regards to variances by the Douglas County Board of Commissioners on March 17, 2015, by the following vote:

YES: Bales, Stratton, Meyer, Miller and Johnson

NO:

Effective date: March 17, 2015.

Charlie Meyer, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes relating to renewable energy by the Douglas County Board of Commissioners on April 7, 2015, by the following vote:

YES: Bales, Stratton, Meyer, Miller and Johnson

NO:

Effective date: April 7, 2015.

Charlie Meyer, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes relating to Accessory Buildings by the Douglas County Board of Commissioners on June 20, 2017, by the following vote:

YES: Rapp, Meyer, Miller, Stratton and Englund

NO:

Effective date: June 20, 2017.

James Stratton, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes relating to shoreland alterations and burning by the Douglas County Board of Commissioners on October 17, 2017, by the following vote:

YES: Rapp, Meyer, Miller, Stratton and Englund

NO:

Effective date: October 17, 2017.

James Stratton, Chairperson
Douglas County Board of Commissioners

Approved and adopted changes relating to private/vacation home rental use by the Douglas County Board of Commissioners on March 6, 2018, by the following vote:

YES: Miller, Meyer, Stratton, Englund and Rapp

NO:

Effective date: October 1, 2018.

Owen G. Miller, Chairperson
Douglas County Board of Commissioners