CODE OF ORDINANCES OF FREEBORN COUNTY, MINNESOTA

Published in 2015 by Order of the Board of Commissioners

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PREFACE

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

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

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

Chapter and Section Numbering System

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

Page Numbering System

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

CHARTER	CHT:1
RELATED LAWS	RL:1
SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT:1

Index

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

Looseleaf Supplements

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

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

Acknowledgments

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

The publisher is most grateful to John Kleuver, County Manager; Wayne Sorensen, County Planning and Zoning Administrator; Pat Martinson, County Auditor-Treasurer; and Kelly Callahan, Recorder/Registrar of Titles, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

ADOPTING ORDINANCE

ORDINANCE NO. 2015-00

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

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS:

Section 1. The Code entitled the "Code of Ordinances of Freeborn County, Minnesota," published by Municipal Code Corporation, consisting of chapters 1 through 42, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before October 7, 2014, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine in the maximum required or permitted by state law. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the county board of commissioners may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

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

Section 6. Ordinances adopted after October 7, 2014, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall be in full force and effect on November 1, 2015 after its passage and approval and publication, as required by law and/or charter.

I hereby certify that the above is a true and correct copy of a resolution adopted by the Freeborn County Board of Commissioners at their session on the 20th day of October, 2015 and as appears on the Minutes of their record of proceedings.

John Kluever
Administrator/Clerk
County of Freeborn
State of Minnesota

Mike Lee
Freeborn County Board
Chair

SUPPLEMENT HISTORY TABLE

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

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

Ordinance Number	Included/ Omitted	Supplement Number
2015-00	Included	1
2015-01	Included	1
2015-02	Included	1
2016-01	Included	2

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - Applicability.

The provisions of this chapter shall be applicable to all the chapters, sections, subdivisions, paragraphs and provisions in this Code and shall apply to all persons and property within the county.

Sec. 1-2. - Citation.

This codification of the ordinances of the county shall be known as the "Code of Ordinances of Freeborn County, Minnesota." This Code may also be referred to by the shortened form "Freeborn County Code."

State Law reference— Codification, M.S.A. § 415.021; codification as evidence, M.S.A. § 415.02.

Sec. 1-3. - Definitions and rules of construction.

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

Code. The term "Code" or "this Code," without further qualification, means the Code of Ordinances of Freeborn County, Minnesota.

County. The term "county" means Freeborn County, Minnesota, acting by or through its duly authorized representatives.

County board of commissioners and *county board.* The terms "county board of commissioners" and "county board" mean the board of commissioners of Freeborn County, Minnesota.

Delegation of authority. Whenever a provision appears requiring the head of a department or other officer of the county to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to the required act or perform the required duty unless the terms of the provision designate otherwise.

Fee schedule or *schedule of fees and charges.* The term "fee schedule" or "schedule of fees and charges" means the official consolidated list maintained in the county clerk's office that lists rates for utility or other public enterprises, fees of any nature, deposit amounts and various charges as determined from time to time by the county board of commissioners.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Governing authority, governing body. The term "governing authority" or "governing body" means the county board of commissioners.

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

Law. The term "law" means and denotes applicable federal law, the state constitution and statutes, this Code, ordinances and resolutions of the county, and, when appropriate, any and all rules and regulations that may be promulgated thereunder.

Liberal construction; minimum requirements; overlapping provisions.

(1) The ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter.

(2) In all interpretations, the courts shall look diligently for the intention of the county board of commissioners, keeping in view, at all times, the old law, the evil, and the remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

(3) All general provisions, terms, phrases, and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the county board of commissioners may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

M.S.A. The abbreviation "M.S.A." means and refers to the latest edition or supplement of Minnesota Statutes Annotated. Portions of statutory sections designated "subdivision" will be indicated in parentheses.

May. The term "may" is permissive.

Minn. Admin. Rules. The abbreviation "Minn. Admin. Rules" means and refers to the latest edition or supplement of the Minnesota Administrative Regulations codified as "Minnesota Rules."

Nontechnical and technical words. Words and phrases shall be constructed according to the common and approved usage of the language; but technical words and phrases and such others as may have

acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

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

Ordinance. The term "ordinance" means a legislative act duly adopted by the county board of commissioners of a general and permanent nature.

Person. The term "person" includes all firms, partnerships, associations, corporations and natural persons.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Resolution. The term "resolution" means a legislative act of the county board of commissioners of a special or temporary character.

Shall. The term "shall" is mandatory.

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

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

Written and *in writing.* The terms "written" and "in writing" mean any mode of representing words and letters in the English language.

State Law reference— Construction of words and phrases, M.S.A. § 645.08 et seq.; definitions of words and phrases, M.S.A. § 645.44 et seq.

Sec. 1-4. - Catchlines, notes, and references.

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

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are intended merely to indicate the source of matter contained in the section. Editor's notes, Charter references and state law references that appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) All references to chapters, articles, divisions, subdivisions, or sections are to chapters, articles, divisions, subdivisions, or sections of this Code, unless otherwise specified.

Sec. 1-5. - Certain ordinances not affected by Code.

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

    (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.

    (2) Any ordinance or resolution promising or guaranteeing the payment of money for the county, or authorizing the issue of any bonds of the county, or any evidence of the county's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the county.

(3) Any administrative ordinances of the county not in conflict or inconsistent with the provisions of this Code.

(4) Any right or franchise granted by any ordinance.

(5) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the county.

(6) Any appropriation ordinance.

(7) Any ordinance levying or imposing taxes.

(8) Any ordinance prescribing fees, fines, charges, rates, or other specific monetary values.

(9) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the county.

(10) Any ordinance establishing traffic or parking regulations on any street or public way, including traffic schedules.

(11) Any ordinance regarding salaries or compensation of county officers or employees.

(12) Any temporary or special ordinances.

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

Sec. 1-6. - Amendments to Code.

(a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the county board of commissioners to make such additions or amendments a part of this Code, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments.

(b) All ordinances passed subsequent to the adoption of this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, division, section or subsection, or any portion thereof, such repealed portions may be excluded from the Code by the omission thereof from reprinted pages.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of Ordinances of Freeborn County, Minnesota, is hereby amended to read as follows:…." The new provisions shall then be set out in full.

(d) If a new section not then existing in the Code is to be added, the following language may be used: "That the Code of Ordinances of Freeborn County, Minnesota, is hereby amended by adding a section to be numbered _____ , which section reads as follows:…." The new section may then be set out in full.

(e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-7. - Supplementation of Code.

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

inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," or "this section," as the case may be, or to "sections _____ through _____ ." The inserted section numbers will indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-8. - Altering of Code prohibited.

It shall be unlawful for any person to change or alter, by additions or deletions, any part or portion of such Code, or to inset or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the county to be misrepresented thereby.

State Law reference— Destruction, mutilation, alteration and falsification of public records prohibited, M.S.A. § 609.63(6).

Sec. 1-9. - General penalties; attorney fees and costs.

(a) Any person, firm or corporation who shall violate any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, punished by a fine not to exceed the maximum amount set by current state statute and the cost of prosecution or, in default of the payment thereof, by imprisonment in the county jail for a period not to exceed the current maximum set by state statute, or both such fine or imprisonment in the discretion of the court.

(b) Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter.

(Ord. No. 15, art. 26, § 2, 1-19-2010)

State Law reference— Penalties for violation of county ordinances, M.S.A. § 375.53; maximum fine for petty misdemeanors, M.S.A. § 609.0331; maximum penalty for misdemeanors, M.S.A. § 609.033; maximum penalty for ordinance violations, M.S.A. § 609.034.

Sec. 1-10. - Severability.

Every chapter, section, subdivision, paragraph or provision of this Code shall be, and is hereby declared, severable from every other such chapter, section, subdivision, paragraph or provision and if any part or portion of any of them shall be held invalid, it shall not affect or invalidate any other chapter, section, subdivision, paragraph or provision.

Chapter 2 - ADMINISTRATION

ARTICLE I. - IN GENERAL

Secs. 2-1—2-18. - Reserved.

ARTICLE II. - BOARD OF COMMISSIONERS

Secs. 2-19—2-39. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES

Secs. 2-40—2-66. - Reserved.

ARTICLE IV. - BOARDS, COMMISSIONS, COMMITTEES AND AUTHORITIES

Secs. 2-67—2-90. - Reserved.

ARTICLE V. - FINANCE

Secs. 2-91—2-108. - Reserved.

ARTICLE VI. - PUBLIC RECORDS

Secs. 2-109—2-129. - Reserved.

ARTICLE VII. - COUNTY PROPERTY

Secs. 2-130—2-156. - Reserved.

Chapter 4 - AIRPORTS AND AVIATION

Sec. 4-1. - Purpose.

These airport regulations are adopted for the purposes of:

(1) Preserving the utility of the Albert Lea Municipal Airport and the public investment therein by regulating property or occupants by land in the vicinity of the airport to prevent obstructions that interfere with the landing, takeoff, and maneuvering of aircraft.

(2) Protecting the public health, safety and convenience and promoting the most appropriate use of land by preventing the creation or establishment of any airport hazard.

(3) Preventing the creation of these airport hazards to the extent legally possible by the exercise of police power.

(4) Preventing airport hazards through elimination, removal alteration, mitigation, or marking or lighting of existing hazards.

(Ord. No. 15, art. 19, § 1, 1-19-2010; Ord. No. 15.099, art. 19, § 1, 11-19-2013)

Sec. 4-2. - Definitions.

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

Airport means the Albert Lea Municipal Airport located in the East 1,320 feet of Section 32 and the West one-half of Section 33, Township 103, Range 21 West.

Airport elevation means the established elevation of the highest point on the usable landing area, which elevation is established to be 1,261 feet above mean sea level.

Airport hazard means any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

Commissioner means the commissioner of the state department of transportation.

Conforming use means any structure, tree, or object of natural growth, or use of land that complies with all the applicable provisions of this chapter or any amendment to this chapter.

Dwelling means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

Height, for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Landing area means the area of the airport used for the landing, taking off or taxiing of aircraft.

Nonconforming use means any pre-existing structure, tree, natural growth, or land use which is inconsistent with the provisions of this chapter, or an amendment hereto.

Non-precision instrument runway means a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

Other than utility runway means a runway that is constructed for and intended to be used by jet aircraft of more than 12,500 pounds maximum gross weight; or is 4,900 feet or more in length.

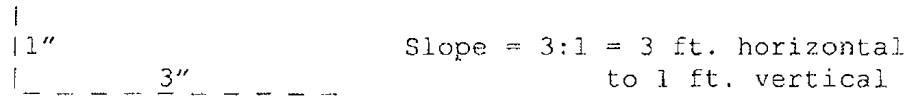
Person means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

Planned , as related to airport facilities and as used in this chapter, means those proposed future developments that are so indicated on a planning document having the approval of the Federal Aviation Administration; the state department of transportation, division of aeronautics; and the City of Albert Lea.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), a microwave landing system (MLS), or a precision approach radar (PAR), a transponder landing system (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

Runway means any existing or planned paved surface or turf-covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

Slope means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



Structure means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, overhead transmission lines, signs and billboards, earth formations, and walls.

Traverse ways, for the purpose of determining height limits as set forth in this chapter, shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

Tree means any object of natural growth.

Utility runway means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less and is less than 4,900 feet in length.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

Water surfaces , for the purpose of this chapter, has the same meaning as land for the establishment of protected zones.

(Ord. No. 15, art. 19, § 2, 1-19-2010; Ord. No. 15.099, art. 19, § 2, 11-19-2013)

Sec. 4-3. - Areas to which this chapter applies.

(a) *Primary zone.* All that land which lies directly under an imaginary surface longitudinally centered on a runway and extending 200 feet beyond each end of the (17/35) and (5/23) runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 1,000 feet for Runway 17/35 and 500 feet for Runway 5/23.

(b) *Horizontal zone.* All that land which lies directly under a imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1,411 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 10,000 feet for Runway 17/35 and 5,000 feet for Runway 5/23. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded in the construction of the perimeter of the horizontal surface.

(c) *Conical zone.* All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet as measured outward from the periphery of the horizontal surface.

(d) *Approach zone.* All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of 40 to one for the Runway 5/23. The approach surface expands uniformly to a width of 3,600 feet for Runway 5/23 at a distance of 10,000 feet, then continues at the same rate of divergence to the periphery of the conical surface.

(e) *Precision instrument approach zone.* All that land that lies directly under an imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Runway 17/35, a precision instrument runway. The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision

instrument approach surface inclines upward and outward at a slope of 50 to one for a horizontal distance of 10,000 feet expanding uniformly to a width of 4,000 feet, then continues upward and outward for an additional horizontal distance of 40,000 feet at a slope of 40 to one, expanding uniformly to an ultimate width of 16,000 feet.

(f) *Transitional zone.* All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of seven to one from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface. Transitional surfaces for those portions of the precision instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the precision instrument approach surface and at right angles to the extended precision instrument runway centerline.

(g) *Safety Zone A.* All land in that portion of the approach zones of a runway, as described in subsection (d) of this section, which extends outward from the end of the primary surface a distance equal to two-thirds of the planned length of the runway, which distance shall be:

(1) 3,333 feet for Runway 17/35.

(2) 2,400 feet for Runway 5/23.

(h) *Safety Zone B.* All land in that portion of the approach zones of a runway, as described in subsection (d) of this section, which extends outward from Safety Zone A a distance equal to one-third of the planned length of the runway, which distance shall be:

(1) 1,667 feet for Runway 17/35.

(2) 1,200 feet for Runway 5/23.

(i) *Safety Zone C.* All that land which is enclosed within the perimeter of the horizontal zone, as described in subsection (b) of this section, and which is not included in Zone A or Zone B.

(Ord. No. 15, art. 19, § 3, 1-19-2010; Ord. No. 15.099, art. 19, § 3, 11-19-2013)

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

(a) It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(b) The airport regulations shall be in addition to any other provisions of this chapter.

(Ord. No. 15, art. 19, § 4, 1-19-2010; Ord. No. 15.099, art. 19, § 4, 11-19-2013)

Sec. 4-5. - Use restrictions.

(a) *Generally.* Subject at all times to the height restrictions set forth in subsection (b) of this section, no use shall be made of any land in any of the safety zones defined in section 4-3, which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

(1) *Zone A.* Subject at all times to the height restrictions set forth in subsection (b) of this section, and to the general restrictions contained in this section; areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited

to, such uses as agricultural seasonal crops, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor non-spectator recreation, cemeteries, and auto parking.

(2) *Zone B.*

a. Subject at all times to the height restrictions set forth and to the general restrictions; areas designated as Zone B shall be restricted in use as follows:

1. Each use shall be on a site whose area shall not be less than three acres.

2. Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.

3. Each site shall have no more than one building plot upon which any number of structures may be erected.

4. A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area at Least (acres)	But Less Than (acres)	Ground Floor Area Ratio	Maximum Ground Floor Area	Maximum Site Population (15 persons/acre)
3		12:1	10,900	45
	4	12:1		
4		10:1	17,400	60
	6	10:1		
6		8:1	32,700	90
	10	8:1		
10		6:1	72,600	150
	20	6:1		
20	and up	4:1	218,000	300

b. The following uses are specifically prohibited in Zone B: Churches, hospitals, schools, theaters, stadiums, hotels, motels, trailer courts, campgrounds, and other places of frequent public or semi-public assembly.

(3) *Zone C.* Zone C is subject only to height restrictions set forth in subsection (b) of this section, and to the general restrictions contained herein.

(b) *Height restrictions.* Except as otherwise provided in this chapter, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any airspace zone created so as to project above any of the airspace surfaces described. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail. Height limits shall be increased by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

(c) *Boundary limitations.*

(1) *Airspace obstruction zoning.* The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed 1.5 miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

(2) *Land use safety zoning.* The land use zoning restrictions set forth in this section shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

(d) *Existing uses.* Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance from which this chapter is derived or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(Ord. No. 15, art. 19, § 5, 1-19-2010; Ord. No. 15.099, art. 19, § 5, 11-19-2013)

Sec. 4-6. - Nonconforming uses.

(a) *Hazard marking and lighting.* The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the zoning administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Albert Lea.

(b) *Regulations not retroactive.* The regulations prescribed in this chapter shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance from which this chapter is derived or amendments thereto or otherwise interfere with the continuance of any nonconforming use, or shall they require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance from which this chapter is derived or amendments thereto, and is diligently prosecuted and completed within two years thereof.

(Ord. No. 15, art. 19, § 6, 1-19-2010; Ord. No. 15.099, art. 19, § 6, 11-19-2013)

Sec. 4-7. - Prohibited areas.

Uses which shall not be permitted and shall be removed in the opinion of the state commissioner of transportation are those which present a severe safety hazard to the air-traveling public or persons on the ground. Said uses may include, but are not limited to:

(1) Any structure which is customarily used as a principal residence and which is located entirely within Safety Zone A and within 1,000 feet of the end of the primary zone;

(2) Any structure which is customarily used as a principal residence, which is located entirely within Safety Zone A or B, and which penetrates an imaginary approach surface.

(3) Any land use in Safety Zone A or B which violates any of the following standards:

a. Interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft.

b. Difficulty for pilots to distinguish between airport lights and other lights.

c. Glare in the eyes of pilots using the airport or impaired visibility in the vicinity of the airport;

(4) Any isolated residential building lot zoned for single-family or two-family residences on which any structure, if built, would be prohibited by subsection (3) of this section. An isolated residential building lot is one located in an area in which the predominant land use is single-family or two-family residential structures; and

(5) Any other land use which presents, in the opinion of the commissioner, a material danger to the landing, taking off, or maneuvering of aircraft or the safety of persons on the ground. In making such a determination, the commissioner shall consider the following factors:

a. Contribute to or cause a collision of two or more aircraft or an aircraft and some other object.

b. Explosion, fire, or release of harmful or noxious gases, fumes, or substances in case of an aircraft accident.

c. Tendency to increase the number of persons that would be injured in case of an aircraft accident.

d. Effect of the land use on availability of clear areas for emergency landings.

e. Flight patterns around the airport, the extent of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether the airport is controlled, and other similar factors.

(Ord. No. 15, art. 19, § 7, 1-19-2010; Ord. No. 15.099, art. 19, § 7, 11-19-2013)

Sec. 4-8. - Future uses.

Except as specifically provided, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted by the zoning administrator. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(1) However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would exceed the height limit prescribed for the respective zone.

(2) Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this chapter as set forth in section 4-5(b).

(Ord. No. 15, art. 19, § 8, 1-19-2010; Ord. No. 15.099, art. 19, § 8, 11-19-2013)

Sec. 4-9. - Existing uses.

Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance from which this chapter is derived or any amendments thereto, or than it is when the application for permit is made. Except as indicated, all applications for such a permit shall be granted.

(Ord. No. 15, art. 19, § 9, 1-19-2010; Ord. No. 15.099, art. 19, § 9, 11-19-2013)

Sec. 4-10. - Airport zoning map; adoption by reference.

The several zones herein established are shown on the Albert Lea Municipal Airport Zoning Map consisting of six sheets, prepared by the City of Albert Lea Department of Public Works and titled:

(1) Airspace Zoning;

(2) Land Use Zoning;

(3) Runway 17 Land Use Zoning Detail;

(4) Runway 5/23 Land Use Zoning Detail;

(5) Runway 35 Land Use Zoning Detail; and

(6) Runway 35 Land Use Zoning Detail and Established Residential Neighborhood;

dated September 2012, attached hereto, and made a part hereof, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this chapter.

(Ord. No. 15, art. 19, § 10, 1-19-2010; Ord. No. 15.099, art. 19, § 10, 11-19-2013)

Sec. 4-11. - Appeals and variances.

(a) *Establishment and composition.* An airport board of adjustment is hereby established. The members of the county board of adjustment shall, by virtue of their positions, constitute the airport board of adjustment.

(b) *Duties and responsibilities.* The airport board of adjustment shall have the following duties and responsibilities:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the zoning administrator in the enforcement of the airport zoning regulations.

(2) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which the board may be required to pass under such regulation.

(3) To hear and decide specific variances.

(Ord. No. 15, art. 19, § 11, 1-19-2010; Ord. No. 15.099, art. 19, § 11, 11-19-2013)

Chapter 6 - BUILDINGS AND CONSTRUCTION

(RESERVED)

Chapter 8 - BUSINESSES

ARTICLE I. - IN GENERAL

Sec. 8-1. - License background checks.

(a) The county sheriff's office is required, as the exclusive entity within the county, to do a criminal history background investigation of applicants for county business licenses. In conducting the criminal history background investigation in order to screen license applicants, the county sheriff's office is authorized to access data maintained in the state bureau of criminal apprehensions computerized criminal history information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the county sheriff's office under the care and custody of the chief law enforcement official or his designee.

(b) A summary of the results of the computerized criminal history data may be released by the county sheriff's office to the licensing authority, including the county commissioners, or other county staff involved in the license approval process.

(c) Before the investigation is undertaken, the applicant must authorize the county sheriff's office by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S.A. § 364.09.

(d) The county will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence.

(e) If the county rejects the applicant's request on this basis, the county shall notify the applicant of the grounds and reasons for the denial, the complaint and grievance procedure set forth by state statutes, the earliest date the applicant may reapply for the license, and that all competent evidence of rehabilitation will be considered upon reapplication.

(Ord. No. 27 (Res. No. 13-071), § 2, 3-19-2013)

State Law reference— Right to present evidence, M.S.A. § 364.09.

Secs. 8-2—8-20. - Reserved.

ARTICLE II. - TOBACCO SALES

Sec. 8-21. - Purpose.

Because the county recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco-related devices, and the sales, possession, and use are violations of both state and federal laws; and because studies, which are accepted and adopted, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government, this article shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco-related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S.A. § 144.391.

(Res. No. 97-243, § 100, 12-30-1997)

State Law reference— Public policy regarding promotion of nonsmoking, M.S.A. § 144.391.

Sec. 8-22. - Definitions.

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

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

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

Loosies refers to a single or individually packaged cigarette.

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

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

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

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

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

Tobacco or *tobacco product* means any substance or item containing tobacco leaf, including, but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in the manner as to be suitable for chewing, sniffing, or smoking.

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

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

(Res. No. 97-243, § 200, 12-30-1997)

Sec. 8-23. - License.

(a) *Required.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco-related devices without first having obtained a license to do so from the county or other statutory governmental licensing entity.

(b) *Application.* An application for a license to sell tobacco, tobacco products, or tobacco-related devices shall be made on a form provided by the county. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the county deems necessary. Upon receipt of a completed application, the county auditor-treasurer or designated deputy shall determine whether an application is complete. In the event the application is incomplete, he shall return the application to the applicant with notice of the information necessary to make the application complete.

(c) *Action.* The county auditor-treasurer or a specifically designated deputy may either approve or deny the license, or may delay action for the reasonable period of time as necessary to complete any investigation of the application or the applicant as is deemed necessary. If the county auditor-treasurer or designated deputy shall approve the license, the county auditor-treasurer or designated deputy shall issue the license to the applicant. If the county auditor-treasurer or designated deputy denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision to the hearings officer.

(d) *Term.* All licenses issued under this article shall be valid for one calendar year from March 1 until the last day of February of each succeeding year.

(e) *Revocation or suspension.* Any license issued under this article may be revoked or suspended as provided in the violations and penalties section of this article.

(f) *Transfers.* All licenses issued under this article shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued.

(g) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.

(h) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

(i) *Renewals.* The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license. The issuance of a license issued under this article shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(j) *Fees.* No license shall be issued under this article until the appropriate license fee shall be paid in full. The fee for a license under this article shall be as provided in the county fee schedule.

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

(1) The applicant is under the age of 18 years.

(2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco-related devices.

(3) The applicant has had a license to sell tobacco, tobacco products, or tobacco-related devices revoked within the preceding 12 months of the date of application.

(4) The applicant fails to provide any information required on the application, or provides false or misleading information.

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation, from holding a license.

(Res. No. 97-243, §§ 300, 400, 500, 12-30-1997)

Sec. 8-24. - Prohibited sales.

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

(1) To any person under the age of 18 years.

(2) By means of any type of vending machine, except as may otherwise be provided in this article.

(3) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco product, or tobacco-related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco-related device between the licensee or the licensee's employee and the customer.

(4) By means of loosies as defined in section 8-22.

(5) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances, except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.

(6) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

(Res. No. 97-243, § 600, 1100, 12-30-1997)

Sec. 8-25. - Vending machines.

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

(Res. No. 97-243, § 700, 12-30-1997)

Sec. 8-26. - Self-service sales.

It shall be unlawful for a licensee under this article to allow the sale of tobacco, tobacco products, or tobacco-related devices by any means where by the customer may have access to the items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco-related device between the licensee or his clerk and the customer. All tobacco, tobacco products, and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

(Res. No. 97-243, § 800, 12-30-1997)

Sec. 8-27. - Licensee's responsibility for acts of employees.

All licensees under this article shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco-related devices on the licensed premises, and the sale of an

item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the county from also subjecting the clerk to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

(Res. No. 97-243, § 900, 12-30-1997)

Sec. 8-28. - Compliance checks and inspections.

(a) All licensed premises shall be open to inspection by the county sheriff's office or other authorized county official during regular business hours.

(b) From 9:00 a.m. to 9:00 p.m., but at least once per year, the county shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco-related devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated county personnel.

(c) Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, or tobacco-related devices when the items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his employee and shall produce any identification, if any exists, for which he is asked.

(d) Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

(Res. No. 97-243, § 1000, 12-30-1997)

Sec. 8-29. - Violation procedure.

(a) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his right to be heard on the accusation.

(b) *Hearings.* If a person accused of violating this article so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator. The county administrator shall serve as the hearing officer.

(c) *Decision.* If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under section 8-30, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the acquitted accused violator.

(d) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the jurisdiction of the county in which the alleged violation occurred.

(e) *Misdemeanor prosecution.* Nothing in this section shall prohibit the county from seeking prosecution as a misdemeanor for any alleged violation of this article. If the county elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

(f) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Res. No. 97-243, § 1200, 12-30-1997)

Sec. 8-30. - Penalties.

Any licensee found to have violated this article, or whose employee shall have violated this article, shall be charged an administrative fine of $75.00 for a first violation of this article; $200.00 for a second offense at the same licensed premises within a 24-month period; and $250.00 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days. Nothing in this section shall prohibit the county from seeking prosecution as a misdemeanor for any violation of this article.

(Res. No. 97-243, § 1300, 12-30-1997)

Sec. 8-31. - Exceptions and defenses.

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

(Res. No. 97-243, § 1400, 12-30-1997)

Secs. 8-32—8-50. - Reserved.

ARTICLE III. - JUNKYARDS AND SALVAGE YARDS[1]

Footnotes:

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State Law reference— County regulation of secondhand and junk dealers, M.S.A. § 471.924.

Sec. 8-51. - New establishments prohibited.

Junkyards and salvage yards commencing operation after July 1, 1994, are prohibited.

(Ord. No. 17a, art. 17, § 1, 6-11-2007)

Sec. 8-52. - Permit required.

All junkyards or salvage yards existing prior to July 1, 1994, shall obtain an operational permit. In addition to the requirements for all business license requirements, an application for a permit to operate a junkyard or salvage yard shall include an operation plan which identifies handling and storage procedures for all waste, including special waste, an approved closure plan, and such other information as may be required by the department.

(Ord. No. 17a, art. 17, § 2, 6-11-2007)

Sec. 8-53. - Site closure requirements.

All materials shall be handled, transported, and processed pursuant to applicable state and federal regulations for disposal of all solid or hazardous wastes or substances. The owner or operator of the site

must complete a soil and groundwater investigation and evaluation, including action needed to remediate any contamination caused by the use of the site.

(Ord. No. 17a, art. 17, § 3, 6-11-2007)

Sec. 8-54. - Owner responsibility.

The property owner is responsible for the removal and cleanup of contamination of soil, water or air quality.

(Ord. No. 17a, art. 17, § 4, 6-11-2007)

Chapter 10 - COURTS AND JAILS

(RESERVED)

Chapter 12 - EMERGENCY MANAGEMENT AND SERVICES

(RESERVED)

Chapter 14 - ENVIRONMENT

(RESERVED)

Chapter 16 - FIRE PREVENTION AND PROTECTION

ARTICLE I. - IN GENERAL

Secs. 16-1—16-18. - Reserved.

ARTICLE II. - FIRE DEPARTMENT

Secs. 16-19—16-39. - Reserved.

ARTICLE III. - FIRE REGULATIONS

DIVISION 1. - GENERALLY

Secs. 16-40—16-66. - Reserved.

DIVISION 2. - OPEN BURNING[1]

Footnotes:

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State Law reference— Open burning prohibitions, M.S.A. § 88.171.

Sec. 16-67. - Purpose.

The purpose of this division is to regulate open burning within the county, to protect the public health, safety and welfare. Through the passage of the ordinance from which this division is derived, the designated fire official is authorized to adopt and impose burning restrictions to aid in the prevention of wildfire and to consult with the department of natural resources (DNR), division of forestry, to develop any restrictions or other criteria.

(Ord. No. 26, § 3, 10-16-2012)

Sec. 16-68. - Definitions.

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

Designated fire official means the county sheriff who provides public safety services to the county.

Open burning or *open fire* means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed firebox, structure or vehicle and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney. Mobile cooking devices, such as charcoal grills, wood smokers, manufactured hibachis, and propane or natural gas devices, are not considered open burning.

Recreational/camp fire means a fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has had the ground five feet from the base of the fire cleared of all combustible material using dry, clean wood, producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, or social food preparation; extinguished completely before quitting the occasion; and, respecting weather conditions, neighbors, burning bans, and air quality requirements so that nuisance, health or safety hazards will not be created.

Recreational/camp fire site means an area of no more than a three-foot diameter circle (as measured from the inside of the fire ring or border); completely surrounded by noncombustible and non-smoke or odor producing material, either natural rock, cement, brick, tile, blocks or ferrous metal. Burning barrels are not a recreational fire site as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure or combustible material.

Running fire means an open fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management, or agricultural improvement.

Starter fuels means dry, untreated, unpainted, kindling, branches or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open fire.

Vegetative materials means dry leaves, dry grass clippings, twigs, branches, tree limbs, untreated or unpainted wood that contains no glues or resins, and other similar materials. Paper and cardboard are not vegetative materials.

Wood means the substance of trees and shrubs consisting largely of cellulose and lignin. The term "wood" does not include wood that is oil soaked, or treated with paint, glue or preservatives. Clean wood pallets may be used for recreational fires when cut into less than three-foot lengths.

(Ord. No. 26, § 4, 10-16-2012)

State Law reference— Similar definitions, M.S.A. § 88.01.

Sec. 16-69. - Adoption of state law.

A general burning permit may be adopted by the county board of commissioners in counties that are determined by the commissioner of natural resources to have low potential for damage to life and property from wildfire. The provisions of M.S.A. ch. 88, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, permits, and all other matters pertaining to open burning are adopted by reference and are made a part of this division as if set out in full. It is the intention of the county board that all future amendments of M.S.A. ch. 88 are adopted by reference or referenced as if they had been in existence at the time the ordinance from which this division is derived was adopted.

(Ord. No. 26, § 1, 10-16-2012)

Sec. 16-70. - County may be more restrictive than state law.

The county board is authorized to impose additional restrictions on open burning within the county beyond those contained in M.S.A. ch. 88.

Sec. 16-71. - Prohibited materials.

(a) No person shall conduct, cause or permit the open burning of prohibited materials as listed in M.S.A. § 88.171(1) through (8). These include, but are not limited to, oils, petroleum fuels, rubber, plastic, chemically treated materials, or other materials that produce excessive or noxious smoke, such as tires, railroad ties, treated, painted or glued wood, composite shingles, tar paper, insulation, composition board, sheet rock, wiring, or paint and paint filters.

(b) No person shall conduct, cause or permit the open burning of hazardous waste or materials from salvage operations; solid waste generated from an industrial or manufactured process; materials from a service or commercial establishment; or building materials generated from demolition of structures, except as authorized in M.S.A. ch. 88.

(c) No person shall conduct, cause or permit the open burning of discarded materials resulting from the handling, processing, storage, preparation, serving or consumption of food (i.e., garbage).

(Ord. No. 26, § 5, 10-16-2012)

Sec. 16-72. - General burning permit.

Permission for open burning is extended to all residents in the county without the need for individual written or electronic permits under this division, provided burning conforms to all other provisions of this division and state law. A permit is not required for any fire which is a recreational/camp fire. Cities may further restrict burning within the boundaries of their jurisdiction. Open burning may take place daily at any hour and shall conform to the following conditions:

(1) A permit under this division allows for the open burning of wood and vegetative material only.

(2) Open fires may not burn within 50 feet of the residence of another person without the written permission of the occupant.

(3) Prevailing winds must be away from neighboring occupied buildings, public roads, airports and landing strips.

(4) Burning is prohibited below the ordinary high water mark of public waters, except for agricultural operations or for the purposes of managing forests, prairies, or wildlife habitats.

(5) Fires must be kept under control. Owners and occupants starting or tending fires are liable for all damages and costs caused by violations of this division or state law.

(6) Open fires shall not be started, and must be immediately extinguished, at any time the designated fire official determines that there is danger of fire spreading, endangering property or otherwise creating a hazard or nuisance. No person shall refuse a lawful order to extinguish a fire.

(7) A fire may not be allowed to smolder with no flame present.

(8) The owner or occupant of a property shall notify the law enforcement dispatch office each day before starting an open fire and each subsequent day if the fire carries over from day to day.

(Ord. No. 26, § 6, 10-16-2012)

Sec. 16-73. - Permitted open burning; special circumstances.

(a) Under special or extraordinary circumstances, open burning outside of county regulations may be allowed by the county or by the commissioner of natural resources or an agent of the commissioner of natural resources for:

(1) Elimination of a health hazard that cannot be abated by other practical means, as determined by the commissioner of health or the board of health.

(2) Ground thawing for utility repair and construction.

(3) Running fires.

(4) Disposal of vegetative matter for managing forests, prairies or wildlife habitats, and in the development and maintenance of land and rights-of-way where chipping, composting, land-spreading or other alternative methods are not practical.

(5) Disposal of diseased trees generated on site, diseased or infected nursery stock, or diseased bee hives.

(6) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

(b) Permits to a fire department allowing burning of a structure for fire training may only be issued by the commissioner of natural resources or an agent of the commissioner of natural resources.

(c) Permits for the operation of a permanent tree and brush open burning site may only be issued by the commissioner of natural resources or an agent of the commissioner of natural resources.

(Ord. No. 26, § 7, 10-16-2012)

Sec. 16-74. - Responsibility.

Prior to starting an open burn, the person conducting the open burn is responsible for confirming that no burning ban or burning restrictions are in place. The open burning site shall have communication and fire suppression equipment available. The open burn shall be attended to at all times by the person responsible for the fire, or a competent representative. The fire shall be completely extinguished before the person or his representative leaves the site. The person responsible for the fire is accountable for compliance and implementation of all general conditions, special conditions, and guidelines as established in this division. The person responsible for the fire shall be liable for all costs incurred as a result of the burn, including, but not limited to, fire suppression costs and damages, as well as administrative fees.

(Ord. No. 26, § 8, 10-16-2012)

Sec. 16-75. - Revocation of general burning permit.

This general burning permit is subject to revocation at the discretion of a designated county fire official, a licensed peace officer, conservation officer or a state department of natural resources forest officer. Reasons for revocation include, but are not limited to, a fire hazard existing or developing during the course of the burn; any permit conditions being violated during the course of the burn; pollution or nuisance conditions developing during the course of the burn; or a fire smoldering with no flame; or no attendant present.

(Ord. No. 26, § 9, 10-16-2012)

Sec. 16-76. - Burning ban or air quality alert.

The designated fire official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the county. No recreational fire or open burning will be permitted when the county has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert.

(Ord. No. 26, § 10, 10-16-2012)

Sec. 16-77. - Penalty.

(a) Any person, firm or corporation who shall violate any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, punished by a fine not to exceed the maximum amount set by current state statute and the cost of prosecution or, in default of the payment thereof, by imprisonment in the county jail for a period not to exceed the current maximum set by state statute, or both such fine or imprisonment in the discretion of the court.

(b) Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter.

(Ord. No. 15, art. 26, § 2, 1-19-2010; Ord. No. 26, § 11, 10-16-2012)

Chapter 18 - HEALTH AND PUBLIC WELFARE

(RESERVED)

Chapter 20 - OFFENSES AND NUISANCES

ARTICLE I. - IN GENERAL

Secs. 20-1—20-18. - Reserved.

ARTICLE II. - SOCIAL HOST REGULATIONS[1]

Footnotes:

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State Law reference— Social host liability in civil actions, M.S.A. §§ 340a.90, 340a.801.

Sec. 20-19. - Purpose.

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

(Res. No. 10-232, art. II, 12-14-2010)

Sec. 20-20. - Definitions.

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

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

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

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

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

Parent means any person having legal custody of a juvenile, such as:

(1) A natural, adoptive parent, or step-parent;

(2) A legal guardian; or

(3) A person to whom legal custody has been given by order of the court.

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

Underage person means any individual under 21 years of age.

(Res. No. 10-232, art. III, 12-14-2010)

Sec. 20-21. - Prohibited acts.

(a) It is unlawful for any persons to host or allow an event or gathering at any residence, premises, or any other private or public property where alcohol or alcoholic beverages are present, when the person knows or reasonably should know that an underage person will or does:

(1) Consume any alcohol or alcoholic beverage; or

(2) Possess any alcohol or alcoholic beverage with the intent to consume it; and

the person fails to take reasonable steps to prevent possession or consumption by the underage persons.

(b) A person is criminally responsible for violating subsection (a) of this section if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(c) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

(Res. No. 10-232, art. IV, 12-14-2010)

Sec. 20-22. - Exceptions.

(a) This article does not apply to conduct solely between an underage person and his parents while present in the parent's household.

(b) This article does not apply to legally protected religious observances.

(c) This article does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(d) This article does not apply when an event or gathering occurs at a residence or on a premises and the person did not know and reasonably could not have known of the occurrence of the event or gathering.

(Res. No. 10-232, art. V, 12-14-2010)

Sec. 20-23. - Enforcement.

This article can be enforced by any law enforcement officer.

(Res. No. 10-232, art. VI, 12-14-2010)

Sec. 20-24. - Penalty.

Violation of this article is a misdemeanor punishable as provided by state law.

(Ord. of 8-16-2011, art. VII; Res. No. 11-199, art. VII, 9-6-2011)

Secs. 20-25—20-51. - Reserved.

ARTICLE III. - ILLICIT DRUG LAB SITE RECLAMATION[2]

Footnotes:

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State Law reference— Methamphetamine laboratory cleanup revolving account, M.S.A. § 446a.083.

DIVISION 1. - GENERALLY

Sec. 20-52. - Purpose.

(a) Professional reports, based on assessments, testing, and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate on the land, surfaces, furnishings, and equipment in or near structures where clandestine drug labs are located.

(b) These conditions present health and safety risks to occupants and visitors of the structures and land through fire, explosion, and skin and respiratory exposure to chemicals.

(c) This article establishes responsibilities and guidelines for involved parties to ensure that:

(1) People are not unnecessarily exposed to the dangers of these contaminated structures or land; and

(2) Proper steps are taken to remove contaminants and ensure appropriate tests are completed to verify that affected structures and land are sufficiently cleaned for human contact as determined by the Occupational Safety and Health Administration (OSHA) guidelines, state pollution control agency and the state department of health clandestine drug lab's general cleanup guidelines.

(d) This article is meant to assist and guide appropriate public authorities, property owners, and occupants to prevent injury and illness to members of the public, particularly children.

(e) This article is intended to reduce exposure to chemicals used at clandestine drug lab operations to levels determined safe by the department of health in structures, including dwellings, buildings, motor vehicles, trailers, appliances or the land where they are located.

(f) This article is intended to minimize the cost to the county for cleanup of clandestine drug lab sites and to identify responsible parties for costs incurred.

(Ord. No. 23, § 1.20, 9-7-2004)

Sec. 20-53. - Jurisdiction.

(a) This article shall apply to all incorporated and unincorporated municipalities and land (city or township) within the boundaries of the county.

(b) Where a municipality has lawfully passed an ordinance to regulate and enforce the cleanup of clandestine drug labs that is more restrictive, the county shall coordinate regulation and enforcement with that municipality.

(Ord. No. 23, § 1.30, 9-7-2004)

Sec. 20-54. - Interpretation and application.

(a) The provisions of this article shall be interpreted and applied as the minimum requirements necessary to protect public health, safety, and welfare.

(b) Where the conditions imposed by any provision of this article are either more restrictive or less restrictive than comparable provisions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall apply.

(Ord. No. 23, § 1.40, 9-7-2004)

Sec. 20-55. - Disclaimer of liability.

Liability on the part of, or a cause of action against, the county or any employee or agent thereof for any damages that may result from reliance on this article shall be eliminated or limited as provided by M.S.A. § 466.02.

(Ord. No. 23, § 1.50, 9-7-2004)

Sec. 20-56. - Fees.

Fees for the administration of this article may be established and amended periodically by resolution of the county board of commissioners.

(Ord. No. 23, § 1.60, 9-7-2004)

Sec. 20-57. - Definitions.

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

Chemical investigation site means a clandestine drug lab site that is under notice and order for cleanup or remediation as a public health nuisance, as authorized by M.S.A. ch. 145a, and this article.

Child means any person less than 18 years of age.

Clandestine drug lab operation means the unlawful manufacture or attempt to manufacture a controlled substance within any area of a structure, such as a dwelling, building, motor vehicle, trailer, boat, or other structure or appliance.

Clandestine drug lab site means any parts of a structure, such as a dwelling, building, motor vehicle, trailer, boat or other structure, or appliance occupied or affected by conditions or chemicals, typically associated with a clandestine drug lab operation.

Cleanup means proper removal or containment to an acceptable level as outlined by the state department of health clandestine drug labs general cleanup guidelines of substances hazardous to humans or the environment at a chemical investigation site. Cleanup is a part of remediation.

Controlled substance means a drug, substance or immediate precursor in schedules I through V of M.S.A. § 152.02, as amended in the future. The term "controlled substance" shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

Law enforcement means any licensed police officer in accordance with state law.

License means the person or firm who has been given authority by the board of commissioners, state department of health, state pollution control agency or other government agency to carry out the activities for which the license is required under the provisions of this article.

Owner means any person, firm, or corporation who owns, in whole or in part, the land or structures, such as a building, motor vehicle, trailer, boat or other appliance at a clandestine drug lab site or clandestine drug lab operation.

Public health authority means the public health director or their designee who are authorized to act as agents of the county board of commissioners, in their role as the community health board, pursuant to the Local Public Health Act, M.S.A. §§ 145a.09 to 145a.13.

Public health nuisance shall have the meaning attributed to it in M.S.A. § 145a.02(17).

Remediation means methods such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, or removal of contaminated materials from a chemical investigation site to levels outlined in the clandestine drug labs general cleanup guidelines, state department of health.

Structure means a dwelling, building, boathouse, ice fishing house, motor vehicle, trailer, boat, appliance or any other area or location, either fixed or temporary.

(Ord. No. 23, § 1.70, 9-7-2004)

Secs. 20-58—20-87. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 20-88. - Declaration of site as a chemical investigation site public health nuisance.

Clandestine drug lab sites, as defined herein, are declared by this article to be chemical investigation site public health nuisances.

(Ord. No. 23, § 2.00, 9-7-2004)

Sec. 20-89. - Medical guidelines for assessing health status of exposed persons.

Medical guidelines for assessing the health status and determining medical care needs of persons, particularly children, that are found or known to be occupants or frequent visitors at a clandestine drug lab site may be established and updated as necessary by the medical consultant who provides consultation services to the county public health department.

(Ord. No. 23, § 2.10, 9-7-2004)

Sec. 20-90. - Law enforcement notice to affected public, public health, and child protection authorities.

(a) Law enforcement authorities who have seized a clandestine drug lab site or clandestine drug lab operation shall notify in writing the county departments responsible for public health and child protection within one working day of identifying the lab site. The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised. The notice shall include sufficient information to inform the recipients of the following:

    (1) Property location by street address and other identifiable location;

    (2) Property owner's and occupant's identities, especially the identities of any children and women of child-bearing age found or known to be associated with the site;

    (3) Chemicals found and indications of chemical residues;

    (4) Presumed duration of the lab;

    (5) Equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and

    (6) Conditions typically associated with a clandestine drug lab site or operation, including weapons, illicit drugs, filth, fire, or electrical shock and other harmful conditions as determined by state law.

(b) Upon identification of the clandestine drug lab site or operation, law enforcement agencies may arrange for or treat, store, transport or dispose of all hazardous waste found at the site in a manner consistent with the state department of health, state pollution control, 29 USC ch. 15, and county rules and regulations, including, but not limited to, county ordinance 17, chapters 32 and 42 of this Code, or other county ordinances as applicable.

(c) When a law enforcement agency completes its work under subsection (b) of this section and is prepared to leave the site, the agency shall affix a warning sign to the entrance of the affected part of the structure. The warning sign shall be those that have been prepared in advance for the situations through the collaboration of county law enforcement, public health authority, and city officials, if applicable. The warning sign shall be a minimum size of 8.5 inches by 11 inches and contain information sufficient to alert visitors or returning occupants that the site is a chemical investigation site public health nuisance, may be dangerous to enter, and must not be entered except by authorization of the public health authority or law enforcement agency identified on the sign.

(Ord. No. 23, § 2.20, 9-7-2004)

Sec. 20-91. - Notice of chemical investigation site public health nuisance to owner and occupant.

(a) After the public health authority receives notice from a law enforcement agency that it has identified a clandestine drug lab site and posted the appropriate chemical investigation site public health nuisance warning sign, the county public health authority shall serve the known lawful occupants and owners of the site, pursuant to M.S.A. § 145a.04(8)(b), with notice of their responsibilities relative to the chemical investigation site public health nuisance.

(b) The county public health authority shall notify, in person or by certified mail, and order the property owner of record and known occupant or agent to have the public health nuisance removed or abated within ten days as provided in M.S.A. § 145a.04 and this article. The public health authority notice and order shall include the following:

    (1) A replica of the chemical investigation site public health nuisance declaration that is posted at the site's entrances.

    (2) Information about the potentially hazardous condition of the chemical investigation site.

    (3) A summary of the property owner's and occupant's responsibilities under this article.

    (4) Information on locating licensed/certified professional services necessary to remove and abate the chemical investigation site public health nuisance status as provided in this article and M.S.A. § 145a.04 or duties to be performed by the property owner as outlined in the state department of health clandestine drug lab's general cleanup guidelines.

(c) The county public health authority shall endeavor to provide information concerning the chemical investigation site public health nuisance declaration and potential hazards to the following additional concerned parties by placards on site, verbal, handouts or direct mail to affected parties if deemed necessary:

    (1) Neighbors that can be reasonably affected by the conditions found;

    (2) The local municipal or township clerk;

    (3) Local law enforcement;

    (4) Other state and local authorities, such as the state pollution control agency, 29 USC ch. 15, and state department of health, that may have public and environmental protection responsibilities at the site.

(Ord. No. 23, § 2.30, 9-7-2004)

Sec. 20-92. - Notice filed with property record or motor vehicle record.

(a) If after ten days' notice and order, the public health authority is unable to obtain any reasonable assurance or plan from the property owner or occupant that the structure is being properly vacated, cleaned, remediated, and tested, public health may provide a copy of the chemical investigation site public health nuisance notice and order to the county recorder and to the lien and mortgage holders of the affected structure or properties. The county recorder is authorized to file that information with the property record and to notify other persons with interest in the property about the property's chemical investigation site public health nuisance status.

(b) When the affected property is a motor vehicle, boat, or trailer, law enforcement shall notify in writing the appropriate state and local agency that maintains motor vehicle, boat, or trailer records, and the holders of liens or security interests against the vehicle or trailer.

(Ord. No. 23, § 2.40, 9-7-2004)

Sec. 20-93. - Property owner's and occupant's responsibility to act.

(a) Property owners and occupants provided with a notice, which also includes the posted warning sign informing them about the chemical investigation site public health nuisance, shall promptly act to vacate occupants from those parts of a structure that are a chemical investigation site public health nuisance. This includes dwellings, buildings, motor vehicles, trailers, boat, appliances or any other affected area or location.

(b) Within ten business days of receiving the public health notice and order to clean up the chemical investigation site public health nuisance, the property owners or occupants shall take the following actions:

(1) Notify in writing the county public health authority that the affected parts of the dwellings, buildings, or motor vehicles have been and will remain vacated and secured until the county public health authority provides notice that the public health nuisance no longer exists.

(2) Contract with one or more licensed environmental hazard testing and cleaning firms (acceptable firms are those that have provided assurance of appropriate equipment, procedures, and personnel, as determined by the state or the county departments of health) to accomplish the following:

a. A detailed on-site written assessment of the extent of contamination at the site and the contamination of the personal property therein;

b. Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site in writing;

c. A complete clean-up of the site (including, but not limited to, the clean-up or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete clean-up of the demolished site;

d. A complete clean-up, or disposal at an approved dumpsite, of all personal property identified as contaminated at the site;

e. A complete clean-up of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site; and

f. Remediation testing and followup testing to determine that all health risks are sufficiently reduced, according to state department of health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein.

(3) Provide the county public health authority with the identity of the testing and cleaning firm the owner or occupant has contracted with for remediation of the structures as described above.

(4) Provide the county public health authority with the contractor's plan and schedule for remediation that will abate the chemical investigation site public health nuisance declaration.

(c) The property owner or occupant may request an extension of time to consider options for arranging cleanup or removal of the affected parts of the structure. The owner or occupant must show good cause for any extension. All requests must be submitted in writing to the county board of commissioners. Any extension shall be dependent on the owner's assurance that the affected parts of the structure will not be occupied pending appropriate cleanup or demolition.

(Ord. No. 23, § 2.50, 9-7-2004)

Sec. 20-94. - Property owner's responsibility for costs and opportunity for recovery.

(a) Consistent with M.S.A. ch. 145a, the property owner shall be responsible for:

(1) Private contractor's fees, cleanup, remediation, and testing of chemical investigation site public health nuisance conditions; and

(2) The county's fees and costs of administering notices and enforcing, vacating, cleanup, remediation, and testing of affected parts of the property.

All fees and costs incurred by the county must be submitted in writing to the property owner within 90 days of final cleanup.

(b) Nothing in this article is intended to limit the property owner's, agent's, occupant's, or the county's right to recover costs or damages, from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab or other lawful sources.

(c) The county's administrative and enforcement services, referenced in subsection (a) of this section, include, but are not limited to, the following:

(1) Posting warning notices or signs at the site;

(2) Notification of potential affected parties;

(3) Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;

(4) Expenses related to the recovery of costs, including the assessment process;

(5) Laboratory fees;

(6) Clean-up services;

(7) Administrative fees; and

(8) Other associated costs.

(Ord. No. 23, § 2.60, 9-7-2004)

Sec. 20-95. - Special assessment to recover public costs.

(a) The county is authorized under M.S.A. § 145a.04(8)(c) to proceed within ten business days of service of a notice for abatement or removal of the public health nuisance to initiate the assessment and cleanup when:

(1) The property owner is not located; or

(2) The public health authority determines that the owner refuses to, or cannot pay the costs, or arrange timely assessment and cleanup that is acceptable to the designated public health authority.

(b) The county auditor (or the auditor's formally identified designee) shall be fully authorized to act, consistent with state law, on behalf of the county to direct funds to ensure prompt remediation of chemical investigation sites.

(c) When the estimated cost of testing, cleanup, and remediation exceeds 75 percent of the county assessor's market value of the structure and land, the county auditor (or the auditor's formally identified designee) is authorized to notify the property owner of the county's intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation.

(d) The property owner shall be responsible for all costs, including those of the county, incurred to abate the public health nuisance, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical investigation site. The county's costs may also include, but shall not be limited to, those set forth in section 20-94(c). Fees and costs specified above that are not paid for in any other way may be collected through a special assessment on the property as allowed by M.S.A. § 145a.08, or by any other applicable federal, state, and county law, ordinance, or applicable county board resolution.

(e) Payment on the special assessment shall be at the annual rate of at least $1,000.00 or more as needed to ensure full payment to the county within ten years. This amount shall be collected at the time real estate taxes are due. The amount due or payment rate may be adjusted by action of the county board of commissioners.

(f) The county may also seek recovery of costs through other methods allowed by federal or state law.

(Ord. No. 23, § 2.70, 9-7-2004)

Sec. 20-96. - Authority to modify or remove declaration of chemical investigation site public health nuisance.

(a) The designated public health authority may modify conditions of the declaration and order removal of the declaration of chemical investigation site public health nuisance.

(b) The modification or removal shall occur only after the public health authority has been provided written notice that levels of contamination are sufficiently reduced through remediation to warrant modification or removal of the declaration. The public health authority may rely on information from competent sources, including those supplied by the property owner or others, such as state and local health, safety, law enforcement, licensed abatement firms or companies and pollution control authorities, to reach the decisions.

(c) When the declaration is modified or removed, the public health authority shall forward that information to the county recorder for addition to the property record if notice of the nuisance declaration was previously filed with the recorder as described above. Similarly, notice shall be provided to the motor vehicle or other license records agencies and lienholders if a notice had previously been provided to them.

(Ord. No. 23, § 2.80, 9-7-2004)

Sec. 20-97. - Waste generated from cleaning up a clandestine drug lab.

Waste generated from chemical investigation site public health nuisances shall be treated, stored, transported, and disposed in accordance with applicable state department of health, 29 USC ch. 15, state pollution control agency, department of transportation and the county rules and regulations for solid waste, or by a company or firm licensed by this state and other hazardous wastes.

(Ord. No. 23, § 2.90, 9-7-2004)

Secs. 20-98—20-122. - Reserved.

DIVISION 3. - EXCEPTIONS, APPEALS, AND PENALTIES

Sec. 20-123. - Administration of article.

Administration of this article, including guidance for, challenges to, and penalties shall be according to the authorities provided in M.S.A. ch. 145a, other applicable state law, the county solid waste management ordinance, law enforcement, public health, planning and zoning, or the environmental services department.

(Ord. No. 23, § 3.10, 9-7-2004)

Sec. 20-124. - Appeals.

The property owner shall be given up to ten business days to appeal to the board of commissioners (or the coordinator's formally identified designee) and if appealed will be given the opportunity to show cause as to why the removal should not occur. The appeal is also the owner's opportunity to assume responsibility and provide acceptable plans and schedule for effectively cleaning, remediation, and testing of the structure. If within ten business days of the law enforcement notice, the owner fails to appropriately appeal or assume responsibility, law enforcement or the county public health is authorized to arrange removal and disposition of the hazardous structure.

(Ord. No. 23, § 3.30, 9-7-2004)

Chapter 22 - PARKS, BOATING AND OTHER RECREATION

ARTICLE I. - IN GENERAL

Sec. 22-1. - Purpose.

The purpose of this chapter is to secure the quiet, orderly, and suitable use and enjoyment of public park reserves, county recreation areas, countywide trail systems, wildlife sanctuaries, forest, historical sites and public access to lakes, rivers, and streams, in parks established or managed by the county, and to further the safety, health, comfort and welfare of all persons using them.

(Ord. No. 6, art. I, § 2, 8-1-1972; Ord. No. 10, § 2, 6-26-1977)

Sec. 22-2. - Jurisdiction.

This article shall apply to all parks owned or managed by the county.

(Ord. No. 6, art. I, § 3, 8-1-1972; Ord. No. 10, § 3, 6-26-1977)

Sec. 22-3. - Definitions.

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

Beer means any alcoholic malt beverage containing not more than 3.2 percent alcohol by weight.

Drug means any drug, the use, possession, or sale of which violates federal or state law.

Intoxicating liquor means any liquor which is intoxicating as defined by state law.

Motorized vehicle means any self-propelled vehicle, except snowmobiles. The term "motorized vehicle" shall include, but not be limited to, automobiles, trucks, dune buggies, minibikes, motorcycles, trail bikes, amphibious vehicles, all-terrain vehicles, and go-carts.

Non-motorized vehicle means any animal-drawn or human-powered conveyance.

Park means any land or water which is designated as a park by the county, and includes all facilities located therein.

Person means any individual, group, firm, partnership, association, corporation, governmental unit, company, or organization of any kind using the facilities of a park.

Pet means any animal owned by or under the control of any person.

Shall is mandatory, not permissive.

Snowmobiles means any self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

Weapon means any firearm or gun from which shot or a projectile is discharged by means of an explosive gas, or compressed air. This definition includes bows and arrows, slingshots, and switch-blade knives.

Wildlife means all living creatures, not human, wild by nature, endowed with sensation and power of voluntary motion, including quadrupeds, mammals, birds, fish, amphibians, reptiles, crustaceans, and mollusks.

(Ord. No. 6, art. I, § 5, 8-1-1972; Res. No. 99-066, art. I, 6-1-1999)

Secs. 22-4—22-24. - Reserved.

ARTICLE II. - PARK REGULATIONS

Sec. 22-25. - Hours.

No person shall be within a park during the hours as may be designated by separate resolution of the county board of commissioners. Hours of permitted use shall be posted at all entrances to each park.

(Ord. No. 6, art. II, § 1, 8-1-1972; Ord. No. 10, § 4, 6-26-1977; Res. No. 99-066, art. II, § 1, 6-1-1999)

Sec. 22-26. - Personal behavior.

(a) No person shall engage in brawling or fighting or offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, resentment in others, or to provoke an assault or breach of the peace, or disturb or annoy another park visitor in their recreational enjoyment of a park; or disturb or interfere with another park visitor's property.

(b) No person shall gamble within a park.

(c) No person shall solicit, sell, advertise, or carry on any business or commercial enterprise or service in a park.

(d) No person shall advertise or engage in any private, for profit, activity or function in any park.

(Ord. No. 6, art. II, § 2, 8-1-1972; Res. No. 99-066, art. II, § 2, 6-1-1999)

Sec. 22-27. - Liquor and drugs.

(a) No person shall be under the influence of an alcoholic beverage or a controlled substance while in a park.

(b) No person shall have in his possession a glass bottle containing an alcoholic beverage in a park.

(c) No person shall use or be in possession or any controlled substance or drug paraphernalia in a park.

(Ord. No. 6, art. II, § 3, 8-1-1972; Ord. No. 17, §1, 8-17-1982; Res. No. 99-066, art. II, § 3, 6-1-1999)

Sec. 22-28. - Hunting and weapons.

(a) No person shall possess or bring into a park any explosive materials, except when these materials are intended to be used as fuel.

(b) No person shall display or have in his possession any firearm or air gun unless cased and unloaded in both barrel and magazine.

(c) No person shall kill, trap, hunt, pursue, or in any manner disturb or cause to be disturbed, any species of wildlife within a park, except that fishing shall be permitted according to state law.

(d) No person shall discharge any weapon from within a park, or into a park from beyond park boundaries.

(Ord. No. 6, art. II, § 4, 8-1-1972)

Sec. 22-29. - Environmental protection.

(a) No person shall remove, damage, or destroy any park facilities, trees, vegetation, ruins, relics, historical features, geological formations, rocks, minerals, wildlife, or soil.

(b) No person shall release within a park any insect, fish, or other wildlife, or introduce within a park any plant, chemical or other agent potentially harmful to the vegetation or wildlife of the park.

(Ord. No. 6, art. II, § 5, 8-1-1972)

Sec. 22-30. - Fires and refuse.

(a) Fires shall be permitted only in designated areas of any park, and then only within spaces specifically delineated as fire sites.

(b) No person shall deposit, burn, or abandon garbage, refuse, sewage, bottles, cans, broken glass, or any other waste materials, except as has been accumulated by the person while making lawful use of the park and incidental to the use and unless the materials shall be placed in receptacles provided for that purpose.

(c) No person shall drop, throw, or otherwise leave unattended in a park lighted matches, burning cigars, cigarettes, tobacco, or other combustible material, except in receptacles provided for the purpose.

(Ord. No. 6, art. II, § 6, 8-1-1972; Ord. No. 11, § 1, 6-26-1988)

Sec. 22-31. - Pets.

(a) No person shall permit any pet under his control to be brought into any park area unless the pet is caged or kept on a leash not more than six feet in length.

(b) No pet shall be tethered to any tree or plant.

(c) No person shall permit a pet to interfere with or disturb any person within a park or to violate the environmental protection clause of this article.

(Ord. No. 6, art. II, § 7, 8-1-1972)

Sec. 22-32. - Vehicles.

(a) Non-motorized vehicles. No person shall ride or pull any non-motorized vehicle through any area of a park, except in areas designated for the use.

(b) Motorized vehicles. No person shall operate any motor vehicle within any park area, except on roads and within parking areas designated for motor vehicles.

(c) Operation of all vehicles shall be in conformity with state law.

(d) No vehicle may be washed, polished, or greased, serviced, or repaired in any park area.

(Ord. No. 6, art. II, § 8, 8-1-1972)

Sec. 22-33. - Snowmobiles.

(a) No person shall operate any snowmobile in any park except on posted trails and in other areas specifically designated for that purpose.

(b) No person shall operate any snowmobile within any park area except in compliance with all state regulations governing the operation of snowmobiles.

(c) No person shall operate any snowmobile within any park area except where there exists snow cover adequate to prevent undue damage to vegetation and ground cover as a result of the operation of the snowmobile.

(Ord. No. 6, art. II, § 9, 8-1-1972; Res. No. 99-066, art. II, § 9, 6-1-1999)

Sec. 22-34. - Horses.

No person shall ride or lead a horse in any park except on trails and in areas designated for the use.

(Ord. No. 6, art. II, § 10, 8-1-1972)

Sec. 22-35. - Waterway uses.

(a) *Fishing.*

(1) No person shall fish in any waterway from within a park except in compliance with state law, regulations, and orders of the commissioner of natural resources.

(2) No person shall clean fish or dispose of remains of fish in any park except in designated areas where facilities for the cleaning and disposal are available.

(b) *Swimming and wading.*

(1) No person shall wade or swim in any waterway within any park except at posted beaches in compliance with hours and regulations posted at the beach.

(2) No inflatable devices shall be used or permitted in beach areas.

(3) No person shall bring cans, bottles, or glass of any kind except eye glasses into any posted beach area.

(c) *Boating and watercraft.*

(1) No person shall launch any boat or watercraft from any park area except from designated launch sites during times designated for that purpose. This restriction shall not apply to any boat or watercraft customarily launched by hand without mechanical aid, such as canoes, sailboats, and duck boats.

(2) Persons operating watercraft shall do so in compliance with state laws and regulations.

(3) No person shall operate a watercraft within any posted or designated beach area or swimming area.

(4) No person shall permit any watercraft under his control to be left unattended except at locations designated for that purpose.

(Ord. No. 6, art. II, § 11(1), 8-1-1972; Res. No. 99-066, art. II, § 10, 6-1-1999)

Sec. 22-36. - Recreational activities.

(a) *Athletic competition.* No person shall participate in athletic competition, including, but not limited to, softball, baseball, football, and badminton, except in designated areas.

(b) *Sledding, skating, etc.* No person shall engage in sledding, coasting, tobogganing or skating, except in designated areas.

(c) *Picnicking.* No person shall picnic in a park except in designated areas, and provided that no person or group of persons shall exclude others from a picnic area.

(Ord. No. 6, art. II, § 11(2), 8-1-1972)

Sec. 22-37. - Groups and assemblies.

(a) No person or group of persons shall conduct public meetings, entertainment, parades, worship services, or demonstrations within a park without first paying the designated fee and obtaining a permit from the county board of commissioners.

(b) Space for a group gathering at a park may be reserved by paying the designated fee and obtaining a permit from the county highway engineer; provided, however, that no county park shall be closed to the general public when the a group gathering is taking place at a county park.

(c) A permit as required in subsections (a) and (b) of this section shall be issued by the county highway engineer and the fee to accompany the permit shall be established from time to time by a separate resolution of the county board of commissioners.

(Ord. No. 6, art. II, § 12, 8-1-1972; Res. No. 99-066, art. II, § 12, 6-1-1999)

Sec. 22-38. - Camping.

(a) (1) Overnight camping shall not be permitted in county parks.

(2) Overnight camping limited to individuals or groups sponsored by nonprofit organizations shall be permitted within county parks. Provided, however, that no nonprofit organization shall camp in a park for longer than three consecutive days, nor shall any single nonprofit organization be permitted to camp in the parks for more than six days in any calendar year.

(3) A single application may be made on behalf of a group of campers. A permit application shall be made at least seven days prior to date on which the camping shall commence.

(4) In addition to the written application, proof of liability insurance coverage for the group shall be required along with payment of a camping fee and the permit shall require that all campers comply with the provisions of the ordinance.

(b) Should any traveling, sleeping or residential device become disabled within a park, written permission shall be obtained from the county sheriff for leaving the device within the park for a specific time period, after which time the device shall be removed, at the owner's expense, either by the county or its designated representative.

(Ord. No. 6, art. II, § 13, 8-1-1972; Ord. No. 13, § 1, 11-21-1978; Res. No. 99-066, art. II, § 13, 6-1-1999)

Sec. 22-39. - Restricted areas.

No person shall enter by any means a posted restricted area or an area which has been declared closed to the public by the county board of commissioners.

(Ord. No. 6, art. II, § 14, 8-1-1972)

Sec. 22-40. - Liability.

Neither the county nor any of its authorized agents shall be liable for any loss, damage, or injury sustained by any park visitor.

(Ord. No. 6, art. II, § 15, 8-1-1972)

Sec. 22-41. - Enforcement and penalties.

(a) Nothing in this article shall prevent employees or agents of the county, including, but not limited to, the sheriff and his deputies, from performing their assigned duties within a park area.

(b) Any person charged with violation of any rules promulgated herein shall be subject to immediate removal from the park.

(c) Violation of any of the provisions of this article shall be a misdemeanor or defined by M.S.A. § 609.02(3).

(Ord. No. 6, art. II, § 16, 8-1-1972; Res. No. 99-066, art. II, § 16, 6-1-1999)

Sec. 22-42. - Permit fees.

(a) Permit fees required by this article shall be established by the county board of commissioners, from time to time, by separate resolution.

(b) Any person charged with violations of any rules promulgated herein shall be subject to immediate removal from the park.

(c) Violation of any of the provisions of this article shall be a misdemeanor or defined by M.S.A. § 609.02(3).

(Res. No. 99-066, art. II, § 17, 6-1-1999)

Sec. 22-43. - Agent for the county board of commissioners.

The county highway engineer shall act on behalf of the county board of commissions in the granting of all permits and in the maintenance and control the county parks, pursuant to this article.

(Res. No. 99-066, art. II, § 18, 6-1-1999)

Sec. 22-44. - Appeal process.

Any person or group denied a requested permit pursuant to this article may appeal from the decision of the county highway engineer, to the county board of commissioners, by submitting a written letter of appeal to the county highway engineer. An appeal hearing shall be held at the next regularly scheduled county commissioners meeting following receipt of the letter of appeal, at which time the person or group appealing shall appear and present their claim to the county board of commissioners following the rules established by the county board of commissioners for public hearings.

(Res. No. 99-066, art. II, § 19, 6-1-1999)

Secs. 22-45—22-61. - Reserved.

ARTICLE III. - BOATING REGULATIONS

Sec. 22-62. - Purpose, intent and application.

As authorized by M.S.A. §§ 86b.201, 86b.205, and 459.20, as now in effect and as hereafter amended, this article is enacted for the purpose and with the intent to control and regulate the use of the waters of White Lake, also known as Lake Chapeau in the county and state, the bodies of water being located entirely within the boundaries of the county, to promote its fullest use and enjoyment by the public in general and the citizens of the county in particular; to ensure safety for persons and property in connection with the use of the waters; to harmonize and integrate the varying uses of the waters; and to promote the general health, safety and welfare of the citizens of state.

(Res. No. 96-29, § 1, 2-20-1996)

State Law reference— State law and local ordinance authority, M.S.A. § 86b.201; water surface use ordinances, M.S.A. § 86b.205; authority over public waters, M.S.A. § 459.20.

Sec. 22-63. - Definitions.

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

White Lake, also known locally as Lake Chapeau, is that body of water which bears that name and is located in sections 6 and 7 in township 101, and in sections 1 and 12 in township 102, range 22, wholly within the boundaries of the county. A map thereof is on file in the office of the county auditor and attached to the original draft of this article.

(Res. No. 94-62, § 1, 4-19-1994; Res. No. 96-29, § 4, 2-20-1996)

Sec. 22-64. - Adoption and incorporation by reference of state waters and watercraft safety laws, and boar and water safety rules promulgated by the state department of natural resources.

The state waters and watercraft safety laws, M.S.A. § 86b.001 et seq., and Minn. Admin. Rules §§ 6110.0100 to 6110.2300 are adopted, incorporated herein by reference, and made a part hereof as if set forth in their entirety. At least three copies of the waters and watercraft safety laws and boat and water safety rules and regulations, so adopted, shall be marked as official copies and filed in the office of the county auditor, along with this article.

(Res. No. 96-29, § 2, 2-20-1996)

Sec. 22-65. - Violations of adopted law are violations of this article.

Any person violating the state waters and watercraft safety laws, and the board and water safety rules and regulations promulgated by the state department of natural resources, adopted and incorporated herein by reference, shall be subject of the penalties and punishment herein provided.

(Res. No. 96-29, § 3, 2-20-1996)

Sec. 22-66. - Surface zoning.

No person shall operate a motorboat at a speed greater than slow-no wake, anytime during the year.

(Res. No. 96-29, § 5, 2-20-1996)

Sec. 22-67. - Enforcement.

The enforcement of this article shall be the primary responsibility of the peace officers of the county sheriff's department. Other licensed peace officers, including conservation officers of the department of natural resources of the state, are also authorized to enforce this article.

(Res. No. 94-62, § 3, 4-19-1994; Res. No. 96-29, § 6, 2-20-1996)

Sec. 22-68. - Exemptions.

All authorized resource management, emergency and enforcement personnel, while acting in the performance of their assigned duties, are exempt from the foregoing restrictions.

(Res. No. 96-29, § 7, 2-20-1996)

Sec. 22-69. - Notification.

It shall be the responsibility of the county to provide for adequate notification of the public, which shall include placement and maintenance of a sign at each public watercraft launching facility outlining essential elements of this article, as well as the placement of necessary buoys and signs.

(Res. No. 96-29, § 8, 2-20-1996)

Sec. 22-70. - Penalties.

Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than $700.00 or by imprisonment of not more than 90 days, or both.

(Res. No. 94-62, § 4, 4-19-1994; Res. No. 96-29, § 9, 2-20-1996)

Chapter 24 - PLANNING AND DEVELOPMENT

ARTICLE I. - IN GENERAL

Secs. 24-1—24-18. - Reserved.

ARTICLE II. - COMPREHENSIVE LAND USE POLICY PLAN

Sec. 24-19. - Purpose.

(a) The purpose of the county land use policy plan is to provide a set of policies applied to specific areas (in this case, the county zoning districts) or to specific land uses (such as confined feedlots or residential subdivisions). The policies are designed to guide the land use decisions for those areas and uses. Such decisions include those made by both the private and the public sectors and, in

particular, those decisions made by the public sector that affect private land use. It is a basic premise of local government land use planning that the community as a whole has an interest in how land is used. Land use decisions have an effect on the need for public expenditures and taxes; on environmental quality; on the consumption of energy, land and other resources; and, where mixtures of incompatible uses are created, on the stability of property values. The adverse impacts of poor land use decisions are felt at the neighborhood, community, and the county levels and, in general, affect the quality of life of the entire area.

(b) The authority to plan has been granted to counties by state law for the purpose of promoting the health, safety, morals, and general welfare of the community.

(c) Planning is an ongoing process. When county policies and ordinances fail to achieve desired results or create new problems, these policies and ordinances should be changed.

(d) The county land use policy plan is closely tied to the county zoning and subdivision ordinance. Prior to reviewing requests to change the zoning on an individual parcel or to approving subdivisions, these requests should be evaluated for conformity to the stated county land use policies.

(e) As stated, the county land use policies are set forth in two categories: those relating to specific areas, such as the floodprone area of the county; or those concerned with specific land uses, such as confined feedlots. In both cases, the policies serve as the basis for chapter 42, zoning, and chapter 34, subdivisions.

(f) The intended use of the county land use policy plan is twofold. The primary use of the policy plan is to act as the basis for chapter 42, zoning, by providing guidelines useful for delineating areas of existing land use and development characteristics to the appropriate zoning district classification so as to afford such areas the regulation necessary to maintain their essential qualities and to ensure that additional development will be keeping with that which has been already established. Second, the policy plan is intended as a guideline to be used to make adjustments to the land use system of the county by:

    (1) Establishing policies for re-classifying land to a more appropriate zoning district (re-zoning) when it is demonstrated that it is necessary and desirable and that the proposed change cannot be achieved without the rezoning;

    (2) Acting as the basis for the county subdivision ordinance through the formulation of general policies for the development of subdivision; and

    (3) Establishing policies for the review of specific land use changes via the conditional use permit process.

The policies presented in the plan are for the most part general in nature providing the county with guidelines in making land use decisions. These policies are translated into specific development standards in chapter 42 (zoning) and chapter 34 (subdivisions).

(g) In their simplest form, the land use policy plan, chapter 42 (zoning) and chapter 34 (subdivisions) are intended to guide development decisions and regulate land used for the convenience, comfort and welfare of the entire county. If this plan and ordinances fail in that respect, it is the responsibility of the county to amend these documents.

(h) Finally, all of the policies guiding the decision making process for designating land to the various land use classifications should be used to evaluate proposals for future land use decisions. No single policy should be used solely or even primarily to justify the approval or disapproval of a proposal to change the designated land use. For this reason, it is important that county officials, staff and the general public are familiar with the county land use policy plan.

(Ord. No. 14, § 1, 4-20-1982)

Sec. 24-20. - Floodprone areas.

(a) The "FP" Flood Plain District is created for the public purpose of reducing flood damages through floodplain management by emphasizing the use of nonstructural measures to control potential flood damage. Such measures may include this floodplain zoning designation as well as floodproofing and flood warning practices.

(b) The "FP" Flood Plain District regulation is intended not to prohibit development but to guide development in the floodplain so that it is consistent with the flood threat and the land use needs of the county.

(c) The "FP" Flood Plain District is designed to guard against the unwise use of floodplains, which may cause loss of life and property, disruption of commerce and government services, unsanitary conditions, and interruption of transportation and communications. Sound land use development can reduce flood damages, decrease public expenditures and inconveniences, and ensure that the county's lands are put to their most appropriate use.

(Ord. No. 14, § 2(Subd. 1), 4-20-1982)

Sec. 24-21. - Shoreland areas.

(a) The shoreland regulations are created because lakes and streams are two of the state's most valuable natural resources serving rapidly expanding recreational needs, as well as increased agricultural, domestic, and industrial demands for water, water which must all come from a fixed natural supply. The economy of many areas is related to the fate of water bodies and their shorelands. As man is drawn to shoreland areas, he often creates problems, such as water pollution, overcrowding, unwise development, destruction of fish and wildlife habitat, and the impairment of natural beauty. These policies and regulations seek to provide a balance between the use and beneficial enjoyment of shorelands and the conservation and preservation of valuable natural resources.

(b) The shoreland regulations are implemented through the zoning ordinance and are an overlay zone. As an overlay zone, these regulations are applied in addition to other zoning restrictions. Shoreland regulations serve as minimum guidelines for county shoreland management programs.

(Ord. No. 14, § 2(Subd. 2), 4-20-1982)

Sec. 24-22. - Agricultural areas.

(a) The "A" Agricultural District is for land in the county where the preservation and conservation of land for agricultural purposes is important or where appropriate non-farm uses of land cannot be determined within the existing pattern of land use or within present growth and economic needs.

    (1) Areas identified as agricultural land should be managed in such a way as to preserve that use and prevent a decline of agricultural uses.

    (2) All agricultural land which has been historically tilled should be preserved.

(b) The principle use of land in the "A" Agricultural District is for agricultural and farm dwellings, although certain uses related to the needs of the people of the county, such as limited development of non-farm dwelling, religious, health, education, and recreation facilities and other uses that are compatible with open land, may be developed.

(c) The location, height, width, bulk, type of foundation, number of stores, and size of dwellings shall be regulated. Additional limited factors for non-farm development controls are:

    (1) The minimum lot size shall be at least one acre of buildable property.

    (2) The proposed lot should be a minimum of 150 feet in width and adjacent to a public road.

    (3) The location of the lot shall be where a safe entrance to a public roadway can be installed.

(4) The minimum lot area for keeping limited numbers of livestock is 2.5 acres.

(5) The proposed lot should be well drained and the soil conditions and topography should allow the installation of an approved on-site sewer system.

(6) The proposed lot should be compatible with surrounding land uses.

(7) The proposed lot should not be located on prime agricultural land, that is, on land with an agricultural crop production rating of 70 or above as determined by the USDA or SDS soils rating.

(8) The proposed lot shall not be located within one-fourth mile of an existing livestock or poultry operation and within one-half mile of an existing livestock operation with 300 animal units or more.

(d) The intent of the "A" Agricultural District is to protect agricultural and open land uses from the intrusion and premature development of uses not performing a function necessary to the agricultural use of the land or meeting the social, cultural or economic growth needs of the county.

(1) Non-farm residential, commercial and industrial uses should not be allowed to locate on agricultural land unless a need for the use is demonstrated and other suitable locations are not available.

(2) Subdivision development should not occur on land designated as prime agricultural or on land in very near proximity to livestock or poultry operations.

(3) In this respect also, careful consideration should be given to the location of livestock and poultry operations which would be located in the path of future urban growth.

(4) Non-farm residential development should occur only at very low densities.

(e) Because land in the agricultural district is subject to being placed in another zoning district as growth and land use changes occur in the county, such changes should be made with due concern to the protection of established uses. Changes in land use should be accomplished through the use of rezoning or conditional use permits recognizing the present and foreseeable future needs of the area so that new uses and land development can be accomplished in an orderly manner conducive to the growth, stability and long-range desirability of the area.

(Ord. No. 14, § 2(Subd. 3), 4-20-1982; Ord. No. 14.001, § 1, 11-16-1982)

Sec. 24-23. - Residential areas generally.

County land use policies for residential development are composed of three districts based on density, dwelling structure type and variety of uses allowed within the districts. The location, height, width, bulk, type of foundation, number of stories, and size of buildings and other structure shall be regulated. All buildings or structures constructed or erected shall comply with all applicable codes. The three residential districts are "R-1" Rural Residence District, "R-2" Suburban Residence District and "RH" Country Homes District.

(Ord. No. 14, § 2(Subd. 4), 4-20-1982; Ord. No. 14.001, § 2, 11-16-1982)

Sec. 24-24. - Residential areas, country homes.

(a) The "RH" Country Homes District is intended to provide large residential sites to accommodate a country estate style of living.

(1) The principle use of this district is for rural residential estates. Limited raising of livestock for recreational, personal consumption or club projects are characteristics of land within the district.

(2) Limited development of uses required to fulfill the day-to-day needs of persons in the county is allowed. Therefore, certain religious, health, education and recreational opportunities are conditionally allowed.

(b) The "RH" Country Homes District is provided for areas within the county which, through expansion, can add to existing country estate development and for land with characteristics appropriate for such development. Land considered for placement in this district should not have access to municipal sewer and water systems. However, land placed in this district should have soil characteristics conducive to the proper functioning of individual sewer and water systems.

(Ord. No. 14, § 2(Subd. 5), 4-20-1982)

Sec. 24-25. - Residential areas, low density.

(a) The "R-1" Rural Residence District is intended to define and protect residential areas from intrusion of uses not performing a function appropriate to the principle use of the land for residential dwelling and related facilities desirable for a residential environment.

    (1) Because land that will be designated for future residential use is frequently used for agricultural purposes, it is necessary to allow the continuation of such agricultural uses even after the reclassification of land for residential development.

    (2) The principle use of land is for low density, residential development, although certain uses related to the needs of the people of the county, such as religious, health, education and recreation facilities and other uses compatible with residential development, may be allowed.

(b) The "R-1" Rural Residence District is provided for expansion of areas within the county with existing low density residential development and for land which has characteristics appropriate of such development.

    (1) Throughout the county, there is land appropriate for low density, residential development, but without central sewer and water systems available.

    (2) Also of importance in the consideration of placing land in this district is the ability of the soil to allow proper functioning of individual water and sewer systems; that character of the land and surrounding land use and land where the established use character or density of development would be best protected by these regulations.

(c) The "R-1" Rural Residence District, in order to achieve a high-quality, well-developed residential areas, must be planned in a manner appropriate to the public's ability to provide and maintain adequate levels of essential services and facilities, including schools, recreation, fire and police protection, and with consideration of the characteristics of the land and surrounding land uses.

(Ord. No. 14, § 2(Subd. 6), 4-20-1982)

Sec. 24-26. - Residential area, low to medium density.

(a) The "R-2" Suburban Residence District is intended to define and protect residential areas of low to medium density development and to provide areas which make available a variety of housing opportunities. Attractiveness, order and efficiency are encouraged by allowing varying densities of development in accordance with the ability to provide water and sewer facilities while maintaining adequate space for light and air. In order to achieve a comprehensive and balanced overall residential area, it is intended that development at one density be in association with other residential development in a manner appropriate to the public's ability to provide and maintain adequate levels of essential services and facilities, including schools, recreation, fire and police protection, and with consideration of the characteristics of the land and surrounding land uses. The "R-2" Suburban Residence District is intended to allow a variety of dwelling units in a manner appropriate to development of areas with distinct density and physical qualities, such as will encourage each area to achieve its full development with a healthful and safe environment and amenities for sustained livability.

(1) Because land that will be designated for future residential use is frequently used for agricultural purposes, it is necessary to allow the continuation of such agricultural uses even after the reclassification of land for residential development.

(2) The principle use of land is for low to medium density residential development, although certain uses related to the day-to-day needs of the people of the county, such as religious, health, education and recreation facilities and other uses compatible with residential development, may be allowed.

(b) The "R-2" Suburban Residence District is provided in recognition of sections of the county with existing low to medium density residential development and land which appears appropriate for such development. Among these sections is land capable of being served by central water and sewer; land where the established use character or density of development would be best protected by these regulations; and sections of the county where the general welfare is best served by the provisions of this district in maintaining the ability to provide essential services and facilities for a healthful and desirable residential environment.

(Ord. No. 14, § 2(Subd. 7), 4-20-1982)

Sec. 24-27. - Urban fringe areas.

(a) The "U" Urban Expansion District is intended to provide a district designed for the protection and separation of urban and rural development by controlling excessive and wasteful scattering of population through a planning process which manages land uses and distribution of land development by provisions of adequate facilities for transportation, water supply, drainage, sanitation, educational opportunities, recreation, protection of prime agricultural land, protections of the tax base and securing economy in government expenditures.

(b) The "U" Urban Expansion District, in order to accomplish its dual purpose of protection and separation, is divided into three subdistricts: the U-1 and U-2 which act as a holding zone both protecting existing legitimate uses and making land available for eventual urban expansion; and the U-3 which acts as a transition zone buffering areas of predominately permanent agricultural use from areas which contain a mixture of urban and agricultural use by strictly regulating and discouraging non-farm development by regulating feedlots.

(c) The "U" Urban Expansion District is intended for areas adjacent to municipalities for the purpose of providing urban expansion through cooperative planning by the county, municipality and township. The county, through its staff, planning commission and county board, will coordinate planning and development activities with affected cites and townships by:

(1) Promoting cooperative planning in land use matters and issues of mutual concern.

(2) Working with the cities and townships to promote orderly growth and annexation when warranted.

(3) Recommending to the local units of government, ordinance changes which will aid coordinated planning activities.

(4) Exchanging plans and policies between the county and adjoining units of government to ensure general knowledge of the ongoing urbanization process.

(d) The "U" Urban Expansion District is intended to encourage planned sequential development, thereby economizing the costs of governmental services and facilities while at the same time providing adequate and efficient public improvements.

(e) The "U" Urban Expansion District recognizes that intense urban development and intense rural development present many incompatibilities, such as conflicts between feedlot operations and residential subdivision. Therefore, it is desirable to avoid any overlap between the two by controlling land use changes in an orderly fashion.

(1) A boundary line should be defined which would separate urban growth and development from intense rural growth and development land uses.

(2) The basis for the establishment of the boundary line would be expected growth of the municipality over a specified number of years. This growth rate would be balanced against the preservation of prime agricultural land for intense agricultural purposes.

(f) The "U" Urban Expansion District should encourage a planning process which place intense agricultural operations outside of the U-1 and U-2 district boundaries; while at the same time intense urban activities should be encouraged to locate, as a logical expansion of the municipality, within the U-1 and U-2 district boundary.

(g) Copies of the "U" Urban Expansion District boundaries map are on file with the county auditor and the planning and zoning administrator.

(Ord. No. 14, § 2(Subd. 8), 4-20-1982; Ord. No. 14.002, § 1, 6-18-1985)

Sec. 24-28. - Business development areas.

(a) The business zoning districts are intended to promote a convenient and efficient distribution of a broad range of retail goods and service to:

(1) Meet consumer demands;

(2) Satisfy commercial land use space requirements;

(3) Achieve a stable and compatible land use pattern; and

(4) Encourage a visually satisfying urban environment.

(b) The proper development of business areas is not only a right under this article but a responsibility to the entire county. Because these business areas are subject to public use, which is a matter of important concern to the whole community, they should provide an appropriate appearance, ample parking, controlled traffic movement, and suitable relationship to adjacent areas.

(c) The county zoning ordinance set forth in chapter 42 provides for two business zoning districts: the "B-1" General Business District and the "B-2" Highway Business District. The following policies are intended to guide commercial development in each of these respective districts:

(1) The "B-1" General Business District is intended to encourage the concentration of a broad range of individual commercial establishments into an area of general commercial activity. Land placed in the district should be centrally located and accessible to the population service. Unincorporated urban areas provide opportunities for adding land to this district.

(2) The "B-1" General Business District is intended for individual retail establishments serving the daily staple needs of the people in surrounding rural areas. Normally the day-to-day needs of rural residents are served by the central business districts of the county's municipalities, however, the county recognizes that several small unincorporated urban areas have existed and provided business opportunities for many years. The "B-1" district recognizes these existing commercial areas. The existence of these areas supplements the central business districts of nearby cities by providing rural residents with shopping and service opportunities.

(3) The "B-2" Highway Business District is intended to provide adequate space in appropriate locations for major commercial users, such as large retail establishments and major service and repair establishments.

(4) The "B-2" Highway Business District is intended for major retail, service and repair establishments serving a large trade area, usually the entire county or beyond. The trade area population served by these establishments requires easy access, although patronage is more dispersed and visits to these establishments is less frequent than in the B-1 district. It is the intent of the B-2 district

regulations that establishments desiring location along major traffic routes be grouped with appropriate and adequate accessways provided.

(5) Because the business districts are subject to public use, which is a matter of important concern to the entire community, both the B-1 and B-2 districts require adequate development standards.

a. Business uses should provide an appropriate appearance, ample off-street parking, controlled traffic movement, and suitable relationship to adjacent properties.

b. Lot sizes for business use are not predetermined by ordinance; rather each use will be examined to assess its need for space to provide off-street parking, landscaping, setback and other site requirements.

c. When deemed necessary for the public safety and convenience service, drives should be required when new commercial areas are developed.

(Ord. No. 14, § 2(Subd. 9), 4-20-1982)

Sec. 24-29. - Industrial development areas.

(a) The "I" Industry District is intended to define areas suitable to the development of a variety of industrial activities and to set forth development standards for the mutual protection of industrial development and areas from other land use activity in the vicinity. Industry should be protected from the intrusion of other land uses which neither perform a function appropriate to an industrial environment nor provide services to the establishment or employers of the industrial area. Industrial areas are intended to encourage the development and maintenance of industrial users, thus providing a variety of locational opportunities to industrial establishment.

(b) The "I" Industry District is intended to provide areas for certain industrial uses which, due to their size and nature, would not conform to the requirements of other land use areas of the county.

(1) Important in determining the location and size of these industrial areas is the accessibility of the location to regional transportation facilities, especially highways, the availability of public utilities, and the adequacy of fire and police protection. The topography of the area should be relatively level with no flood hazard.

(2) These industrial areas may be in close proximity to other land use areas, but wherever possible appropriate physical features should be used as boundaries.

(Ord. No. 14, § 2(Subd. 10), 4-20-1982)

Sec. 24-30. - Confined feedlot operations.

(a) An adequate supply of healthy livestock, poultry, and other animals is essential to the well-being of citizens of the state, the nation and the county. Livestock farming represents a bona fide agricultural use of the land and as such should be allowed to continue to develop in a manner beneficial to all citizens of the county.

(b) Manure from confined feeding operations when improperly stored, transported, or disposed of, negatively affects the environment. When animal manure adds to air, water, or land pollution, it must be controlled.

(1) Non-farm residential development, including both single-family, non-farm homes, and residential subdivisions, should not be allowed near confined feeding operations.

(2) New confined feeding operations should not be allowed to locate in close proximity to county municipalities.

(3) The county believes that prolonged or objectionable odors from the operation of a confined feedlot and the related disposal of manure create an adverse impact on the environment and quality of life for residents of the county. Any confined feeding operation may be required to take reasonable measures to minimize odor in conjunction with said operation.

(Ord. No. 14, § 2(Subd. 11), 4-20-1982)

Chapter 26 - RENEWABLE ENERGY SYSTEMS

ARTICLE I. - IN GENERAL

Secs. 26-1—26-18. - Reserved.

DIVISION 1. - IN GENERAL

Sec. 26-19. - Title.

The title of this article is the Freeborn County Renewable Energy Ordinance, and will be referred to herein as, "this article."

(Ord. No. 2015-01, § 1, 12-1-2015)

Sec. 26-20. - Purpose.

This article is established to regulate the installation and operation of renewable energy systems within the county not otherwise subject to siting and oversight by the state pursuant to M.S.A. chs. 216F, 216C.25, and 500.30, and Minnesota Rules ch. 1325.1100, as amended. In no case shall the provisions of this article guarantee rights to solar access.

(Ord. No. 2015-01, § 2, 12-1-2015)

Sec. 26-21. - Jurisdiction.

The jurisdiction of this article shall apply to all areas of the county outside of incorporated municipalities.

(Ord. No. 2015-01, § 3, 12-1-2015)

Sec. 26-22. - Interpretation.

This article shall, at a minimum, promote and protect the public health, safety, and general welfare. Where the provisions of this article impose greater restrictions than those of any statute, ordinance, or regulations, the provisions of this article shall be controlling. Where the provisions of any statute, ordinance or regulation impose greater restrictions than this article, the provisions of such statute, other ordinance, or regulation shall be controlling.

(Ord. No. 2015-01, § 4, 12-1-2015)

Sec. 26-23. - Enforcement, violations, remedies and penalties.

Enforcement of this article shall be done in accordance with the process and procedures established in the County Code of Ordinances.

(Ord. No. 2015-01, § 10, 12-1-2015)

Sec. 26-24. - Definitions.

For the purpose of this article, the following terms shall have the meaning given to them in this section. To the extent a term used in this article is not defined in this section, the term shall have the meaning given in the county zoning ordinance.

Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

Airfoil means a part such as a blade, with a flat or curved surface, designed to provide a desired reaction force when in motion relative to the surrounding air.

Awning means a sheet of material stretched on a frame and used to keep the sun or rain off a storefront, window, doorway, patio, or deck.

Azimuth means a clockwise measurement around the horizon in degrees, beginning and ending at true north.

Board of adjustment and appeals means an officially constituted quasi-judicial body appointed by the county board whose principle duties are to hear appeals from decisions of the zoning administrator and, where appropriate, grant variances from the strict application of this article.

C-BED (Community-based energy development) project as defined in M.S.A § 216B.1612, as amended. Based on the total name plate generating capacity, C-BED projects are considered to be (1) micro-WECS, (2) non-commercial WECS or (3) commercial WECS as defined in this section.

Campground means a facility licensed by the state department of health for the purposes of camping.

Church as defined in M.S.A. § 272.02.

Commercial WECS means a WECS which is equal to or greater than 200 feet in hub height.

Comprehensive plan means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the unincorporated area of the county.

Conditional use means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in the zoning chapter exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

County means Freeborn County, Minnesota.

County board means Freeborn County Board of Commissioners.

Decibel means a unit of measure of sound pressure.

dB(A), A-Weighted sound level means a measure of over-all sound pressure level in decibels, designed to reflect the response of the human ear.

Dwelling means a residential building or portion thereof intended for occupancy by a single-family, but not including hotels, motels, boarding or rooming houses or tourist homes.

Electromagnetic communications means the use of an electromagnetic wave to pass information between two points.

Fall zone means the area, defined as the furthest distance from the tower base, in which a guyed tower may collapse in the event of a structural failure.

Flicker means the moving shadow cast by the rotating blades of a WECS, or any intermittent, repetitive, or rhythmic lighting effect that is a direct result of rotating WECS blades.

Flicker analysis means a study showing the duration and location of flicker potential.

Generator nameplate capacity means the maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a nameplate physically attached to the generator.

Health care facilities mean facilities principally engaged in providing services for health maintenance and the treatment of mental or physical conditions including but not limited to hospitals, clinics, and nursing homes.

Hub height means the distance from the ground to the center axis of the turbine rotor.

Maximum design tilt (solar energy system) means the maximum tilt, or angle, is vertical, or 90 degrees for a solar energy system designed to track daily or seasonal sun position or capable of manual adjustment on a fixed rack.

Meteorological tower for the purposes of this article, are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the state department of transportation, or other similar applications to monitor weather conditions.

Micro-WECS means a WECS which is less than 100 feet in hub height.

Minimum design tilt (solar energy system) means the minimum tilt, or angle, is horizontal, or zero degrees for a solar energy system designed to track daily or seasonal sun position or capable of manual adjustment on a fixed rack.

Nameplate capacity means the total maximum rated output of a solar energy system.

Noise profile means a study certifying the WECS is in compliance with Minnesota Chapter 7030, as amended, of the Minnesota Pollution Control Agency noise standards.

Non-commercial WECS means a WECS equal to or greater than 100 feet in total height, but equal to or less than 200 feet in hub height.

Non-prevailing wind means the non-dominant wind direction in the county.

Power line means an overhead or underground conductor and associated facilities used for the transmission or distribution of electricity.

Power purchase agreement means a legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

Preliminary acoustic study means a study certifying the WECS will be in compliance with Minnesota Chapter 7030, as amended, of the Minnesota Pollution Control Agency.

Prevailing wind means the predominant wind direction in the county.

Project means a WECS or combination of WECS.

Project boundary/property line means the boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

Project owner means an individual or entity with legal ownership of a WECS project.

Public conservation lands means land owned in fee title by state or federal agencies and managed specifically for conservation purposes, including but not limited to state wildlife management areas, state parks, state scientific and natural areas, federal wildlife refuges and waterfowl production areas. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

Qualified independent acoustical consultant means a person with full membership in the Institute of Noise Control Engineers (INCE), or other demonstrated acoustical engineering certification. The independent qualified acoustical consultant can have no financial or other connection to a WECS developer or related company.

Receptor means structures intended for human habitation, whether inhabited or not, including but not limited to churches, schools, hospitals, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to golf courses, and camp grounds.

Renewable energy means energy from sources that are not easily depleted such as moving water (hydro, tidal and wave power), biomass, geothermal energy, solar energy, wind energy, and energy from solid waste treatment plants.

Roof pitch means the final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths, such as 3/12 , 9/12 , or 12/12 .

Rotor means a system of airfoils connected to a hub that rotates around an axis.

Rotor blades see "Airfoil."

Rotor diameter (RD) means the diameter of the circle described by the moving rotor blades.

School as defined in M.S.A. § 120A.05, as amended, and private schools excluding home school sites.

Solar collector means a device, structure, or 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 daylighting means a device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

Solar energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar energy device means a system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Said systems may also have the capacity to store energy for future utilization. Passive solar energy systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely part of a normal structure, such as a window.

Solar energy system means a set of devices that the primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar energy. This definition also includes structural design features, the purpose of which is to provide daylight for interior lighting.

Solar energy system, accessory use means a solar energy system that is secondary to the primary use of the parcel on which it is located and which is directly connected to or designed to serve the energy needs of the primary use. Excess power may be sold to a power company.

Solar energy system, active means a solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar energy system, building integrated means 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. Such systems include, but are not limited to, solar energy systems that function as roofing materials, windows, skylights, and awnings.

Solar energy system, grid-intertie means a photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

Solar energy system, ground-mounted means a solar collector, or collectors, located on the surface of the ground. The collector or collectors may or may not be physically affixed, or attached to the ground. Ground-mounted systems include pole-mounted systems.

Solar energy system, large means a solar energy system with a nameplate capacity of 40 kilowatts or more.

Solar energy system, mid-size means a solar energy system with a nameplate capacity of greater than ten kilowatts but less than 40 kilowatts.

Solar energy system, small means a solar energy system with a nameplate capacity ten kilowatts or less.

Solar energy system, off-grid means a photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Solar energy system, passive means a solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the heat via a heat exchanger.

Solar energy system, photovoltaic means an active solar energy system that converts solar energy directly into electricity.

Solar energy system, primary use means a solar energy system which is the primary land use for the parcel on which it is located and which generates power for sale to a power company, or other off-premise consumer.

Solar energy system, reflecting means a solar energy system that employs one or more devices designed to reflect solar radiation onto a solar collector. This definition includes systems of mirrors that track and focus sunlight onto collectors located at a focal point. The collectors may be thermal or photovoltaic.

Solar energy system, roof-mounted means a solar collector, or collectors, located on the roof of a building or structure. The collector or collectors may or may not be physically affixed, or attached to the roof.

Solar heat exchanger means a component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar hot air system also referred to as solar air heat; or a solar furnace. An active solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance typically means vertically mounted on a south-facing wall.

Solar hot water system also referred to as a solar thermal. A system that includes a solar collector and heat exchanger that heats or preheats water for building heating systems or other hot water needs, including domestic hot water and hot water for commercial or industrial purposes.

Solar mounting devices means devices that allow the mounting of a solar collector onto a roof surface, wall, or the ground.

Substation means any electrical facility containing power conversion equipment designed for interconnection with power lines.

Transmission line see "Power line."

Total height means the highest point, above ground level, reached by a rotor tip or any other part of the WECS.

Total name plate capacity means the total of the maximum rated output of the electrical power production equipment for a WECS project.

Tower means vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

Tower hub height means the total height of the tower exclusive of the rotor blades.

Wake loss means the loss of wind resource downwind of an operating wind turbine.

Wake loss study means a study of potential impacts to the wind resource downwind of operating wind turbines.

Wind energy conversion system (WECS) means a device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy, including, but not limited to: power lines, transformers, substations, and meteorological towers. The energy may be used on-site or distributed into the electrical grid.

Wind turbine means any equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

Zoning ordinance means the County Code of Ordinances, regulating the use of land and water in the county; adopted December 1, 2015, as amended.

(Ord. No. 2015-01, § 5, 12-1-2015)

Secs. 26-25—26-30. - Reserved.

DIVISION 2. - PROCEDURES

Sec. 26-31. - General procedures.

(a) *Review.* Zoning permits, conditional use permits and variances shall be applied for and reviewed under the procedures established in the County Code of Ordinances and M.S.A ch. 394, except where noted below.

(b) *Permit required.* WECS and solar energy systems may be allowable as either permitted or conditional uses:

  (1) A zoning permit or building permit shall be required for all micro-WECS and small solar energy systems.

  (2) A conditional use permit and building permit shall be required for non-commercial WECS, commercial WECS, meteorological towers, mid and large solar energy systems, any wall or roof mount and reflecting solar energy systems as per sections 26-41 and 26-71.

  (3) Building permit as per the state building code shall be required as applicable.

  (4) This article as it applies to WECS with a combined name plate capacity of up to 25 megawatts. As per M.S.A § 216F, the state public utility commission processes zoning applications for WECS of 25 megawatts or greater.

  (5) This article as it applies to solar energy systems with a combined name plate capacity of up to 50 megawatts. As per M.S.A. § 216E, the state public utility commission processes zoning applications for solar energy systems of 50 megawatts or greater.

(Ord. No. 2015-01, § 6, 12-1-2015)

Sec. 26-32. - Applications for wind energy conversion systems.

(a) *Micro and non-commercial WECS.* An application to the county for a permit under this section shall not be considered complete unless it contains the following information, including but not limited to:

(1) The name(s) and address(es) of all project applicant(s).

(2) The name(s) and address(es) of the project owner(s). For C-BED projects, must provide percent of ownership for each of the project owners.

(3) The legal description(s) of all properties within the project boundary.

(4) A description of the project including: number, type, total name plate generating capacity, tower height, rotor diameter, total height of all wind turbines, and means of interconnecting with the electrical grid.

(5) Site layout, including the location of project area boundaries (purchased and leased wind rights), property lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.

(6) Documentation of land ownership or legal control of the property and current land use on the site and surrounding area.

(7) Signed copy of the power purchase agreement or documentation that the power will be utilized on-site.

(8) Location of wetlands, scenic, and natural areas including bluffs within a one-mile radius of the proposed WECS.

(9) Copies of all permits or documentation that indicates compliance with all other applicable state and federal regulatory standards including, but not limited to:

a. Minnesota Building Code, as amended.

b. The National Electrical Code, as amended.

c. Federal Aviation Administration (FAA), as amended.

d. Minnesota Pollution Control Agency (MPCA)/Environmental Protection Agency (EPA), as amended.

e. Microwave Beam Path Study.

f. Minnesota Pollution Control Agency Chapter 7030, Noise Standards, as amended.

g. Flicker analysis if required by staff.

(10) Location of all known telecommunication towers within a two-mile radius of the proposed WECS.

(11) Location of all known public or private airports or heliports within a five-mile radius of the proposed WECS.

(12) Detailed decommissioning plan including how decommissioning costs would be covered.

(13) Engineer's certification of the proposed WECS.

(14) Documentation of land ownership or legal control of all property within a project boundary and current land use on the site and surrounding area.

(b) *Commercial WECS.* An application to the county for a permit under this section shall not be considered complete unless it contains the following information, including but not limited to:

(1) If required, a letter from the state agency responsible for size determination of a project, pursuant to M.S.A. ch. 216F.011, as amended.

(2) The name(s) and address(es) of project applicant(s).

(3) The name(s) and address(es) of the project owner(s). For C-BED projects, must provide percent of ownership for each of the project owners.

(4) The legal description(s) and address(es) of the project.

(5) A description of the project including: number, type, total name plate generating capacity, tower height, rotor diameter, total height of all wind turbines, and means of interconnecting with the electrical grid.

(6) Site layout, including the location of project area boundaries (wind rights purchased, leased, or acquired by easement), property lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.

(7) Documentation of land ownership or legal control of all property within a project boundary and current land use on the site and surrounding area.

(8) Signed copy of the power purchase agreement or documentation that the power will be utilized on-site.

(9) The latitude and longitude of individual wind turbines.

(10) A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten rotor diameters of the proposed WECS.

(11) Location of wetlands, scenic and natural areas including bluffs within a one-mile radius of the proposed WECS and location of historic sites within a two-mile radius as listed by the state historic preservation office or the national register of historic places.

(12) Copies of all permits or documentation that indicates compliance with all other applicable state and federal regulatory standards including, but not limited to:

a. Minnesota State Building Code, as amended.

b. The National Electrical Code, as amended.

c. Federal Aviation Administration (FAA), as amended.

d. Minnesota Pollution Control Agency (MPCA)/Environmental Protection Agency (EPA), as amended.

e. Microwave beam path study.

f. Preliminary acoustic study.

g. Noise abatement mitigation plan.

h. Flicker analysis.

i. Minnesota Pollution Control Agency, Chapter 7030, Noise Standards, as amended.

j. Wake loss study, if proposed project boundary is within a one-mile radius of another WECS project boundary.

(13) Location of all known communications towers and microwave beam paths within a five-mile radius of the proposed WECS.

(14) Location of all known public or private airports or heliports within a five-mile radius of the proposed WECS.

(15) Detailed decommissioning plan including how decommissioning costs would be covered.

(16) Additional information stated in Minnesota Rules, part 7854.0500 (subpart 1), as amended.

(17) Identification of any and all haul routes to be utilized for material transportation and construction activities including state, federal, county, township, or private roads within the county.

(18) Locations and site plans for all temporary, non-residential construction sites and staging areas.

(Ord. No. 2015-01, § 6, 12-1-2015)

Sec. 26-33. - Applications for primary use solar energy systems.

An application to the county for a permit under this section shall not be considered complete unless it contains the following information, including but not limited to:

(1) Primary use solar energy systems.

a. Site plans.

1. Existing conditions.

i. Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.

ii. Existing public and private roads, showing widths of the roads and any associated easements.

iii. Location and size of any abandoned wells, sewage treatment systems, and dumps.

iv. Existing buildings and any impervious surface.

v. Topography at two foot intervals and source of contour interval, unless determined otherwise by the department. A contour map of the surrounding properties may also be required.

vi. Existing vegetation (list type and percent of coverage; i.e. grassland, plowed field, wooded areas, etc.).

vii. Waterways, watercourses, lakes and public water wetlands.

viii. Delineated wetland boundaries.

ix. Floodplain district boundary, if applicable.

x. The shoreland district boundary, if applicable.

xi. Mapped soils according to the county soil survey.

xii. Surface water drainage patterns.

2. Proposed conditions.

i. Location and spacing of solar collectors.

ii. Location of access roads.

iii. Planned location of underground or overhead electric lines connecting the system to the building, substation, or other electric load.

iv. New electrical equipment other than at the existing building or substation that is the connection point for the system.

v. Proposed erosion and sediment control measures.

vi. Proposed stormwater management measures.

vii. Sketch elevation of the premises accurately depicting the proposed solar energy system and its relationship to any buildings or structures on adjacent lots.

b. Manufacturer's specifications and recommended installation methods for all major equipment, including solar collectors, mounting systems, and foundations for poles or racks.

c. The number of collectors to be installed.

d. A description of the method of connecting the system to a building or substation.

e. A signed copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.

f. Maintenance plan for grounds surrounding the systems.

g. A plan outlining the use, storage, and disposal of chemicals used in the cleaning of the collectors and/or reflectors.

(Ord. No. 2015-01, § 6, 12-1-2015)

Secs. 26-34—26-40. - Reserved.

DIVISION 3. - DISTRICT REGULATIONS

Sec. 26-41. - Permitted and conditional uses.

WECS will be permitted, conditionally permitted, or not permitted based on the land use district as established in the tables below (P = Permitted, C = Conditionally Permitted, NP = Not Permitted):

District	Micro-WECS	Non-Commercial WECS	Commercial WECS	Meteorological Tower
A Agricultural	P	P	C	C
R-1 Rural Residence**	P up to 50' in height	NP	NP	NP
R-2 Suburban Residence District**	P up to 50' in height	NP	NP	NP
R-H Rural Country Homes**	P	C	NP	NP
B-1 General Business District**	P	C	NP	C
B-2 Highway Business District**	P	C	NP	C
I-1 Light Industrial District**	P	C	NP	C
I-2 Industrial District**	P	C	NP	C

UR Urban Expansion District 1	P	Refer to base zone	NP	NP
UR Expansion District 2	P	Refer to base zone	NP	NP
UR Expansion District 3	P	Refer to base zone	NP	NP
S Shoreland** Agricultural District	P	NP	NP	NP
S Shoreland** Non-Agricultural Districts	up to 25' height	NP	NP	NP
FP Floodplain	NP	NP	NP	NP

**Towers in these zones shall be neutral colored monopole or monotruss design.

(Ord. No. 2015-01, § 7, 12-1-2015)

Secs. 26-42—26-50. - Reserved.

DIVISION 4. - WECS GENERAL STANDARDS

Sec. 26-51. - WECS setbacks.

All WECS and meteorological towers shall meet the following setbacks:

Setback Type	**Micro-WECS Less Than 100' Hub Height**	**Non-Commercial WECS 100' But Less Than 200' Hub Height**	**Commercial Equal to or Greater Than 200' Hub Height**	**Meteorological Tower**
Project boundary/property lines	1.1 times the total height	1.1 times the total height	3 RD non-prevailing and 5 RD prevailing	1.1 times the total height
Noise standard	Minnesota Rule 7030, as amended	Minnesota Rule 7030, as amended	Minnesota Rule 7030, as amended	N/A

Road right-of-way	1.1 times the total height	1.1 times the total height	1.1 times the total height	1.1 times the total height
Other right-of-way (railroads, power lines, recreational trails, etc.)	1.1 times the total height	1.1 times the total height	1.1 times the total height	1.1 times the total height
Public conservation lands	1.1 times the total height	1.1 times the total height	3 RD	600'
Wetlands, USFW types III, IV, and V	1.1 times the total height	1.1 times the total height	3 RD	600'
Non-residential structures	N/A	1.1 times the total height	1.1 times the total height	Minimum of 250'
Other existing WECS and internal turbine spacing	N/A	N/A	3 RD non-prevailing and 5 RD prevailing	N/A
Public drainage ditch	50'	50'	50'	50'
Public drainage tile	30'	30'	30'	30'
Dwelling on adjacent properties in R-H, R-1, and R-2 zones	150'	N/A	N/A	N/A
Dwelling on adjacent properties in "A" zone	150'	750'	1,000'	500'
Dwelling on adjacent properties in PD, I, B-1, and B-2 zones	150'	750'	N/A	500'
Municipality, residential zone, campgrounds, churches, health care facilities	150'	750'	2640'	500'

Setbacks shall be measured from future rights-of-way if planned, changed, or expanded rights-of-way are known.

(Ord. No. 2015-01, § 8, 12-1-2015)

Sec. 26-52. - Additional setback requirements.

(a) *Micro-WECS, non-commercial WECS, or commercial WECS.* Based on the total height, micro-WECS, non-commercial WECS, or commercial WECS as defined in this article, will follow the setbacks established for the category under which they fall, as listed in this division.

(b) *Native prairie.* WECS and associated facilities shall not be placed in native prairie unless approved in a native prairie protection plan. A native prairie protection plan shall be submitted if native prairie is present. The permittee shall, with the advice of the DNR and any others selected by the permittee, prepare a prairie protection and management plan and submit it to the county and DNR commissioner 60 days prior to the start of construction.

(c) *Sand and gravel operations.* WECS shall be prohibited in active sand and gravel operations.

(d) *Aviation (public and private airports).* No WECS shall be located so as to create an obstruction to navigable airspace of public and private airports in the county. Setbacks or other limitations determined in accordance with MnDOT Department of Aviation and Federal Aviation Administration (FAA) requirements.

(e) *Setbacks.* Substations, accessory facilities, and power lines associated with the WECS not located within a public right-of-way or any utility easement required by the zoning ordinance shall be setback from the edge of the right-of-way as regulated in chapter 42.

(Ord. No. 2015-01, § 8, 12-1-2015)

Sec. 26-53. - Safety design standards.

(a) *Engineering certification.* For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

(b) *Clearance.* At all times, rotor blades or airfoils must maintain at least 30 feet of clearance between their lowest point and grade/ground surface.

(c) *Warnings.*

    (1) For all WECS: a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

    (2) For all guyed or mono-truss towers:

        a. Visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight feet above grade/ground surface.

        b. Four marker balls shall be placed 16 feet above grade and at 50-foot intervals along the guy wires from grade/ground surface.

c. Visible, anti-climbing fencing shall be installed around anchor points of guy wires and/or tower base.

(Ord. No. 2015-01, § 8, 12-1-2015)

Sec. 26-54. - Tower configuration standards.

(a) *Type of tower.* All wind turbines, which are part of a commercial and C-BED WECS project, shall be installed with a tubular, monopole type tower.

(b) *Structure.* Meteorological towers, micro, and non-commercial wind turbines may be guyed in the agricultural zone. R-1, R-2 and R-H, zones shall be monopole. B-1, B-2, I-1, I-2, and PD may be monopole or mono-truss.

(c) *Color and finish.* All wind turbines and towers that are part of a WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.

(d) *Lighting.* Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights are prohibited.

(Ord. No. 2015-01, § 8, 12-1-2015)

Sec. 26-55. - Abandonment and decommissioning.

A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the zoning administrator outlining the steps and schedule for returning the WECS to service.

(1) *Removal requirements.* When the WECS is scheduled to be decommissioned, the project owner(s)/property owner(s) shall notify the county by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the WECS no more than 60 days after the date of discontinued operations. At the time of removal, the WECS site shall be restored to the state it was in before the WECS was constructed or any other legally authorized use. More specifically, decommissioning shall consist of:

a. All WECS and accessory facilities shall be physically removed to four feet below grade level within 60 days of the discontinuation of use.

b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The conditional use permit granting authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

d. *Abandonment.* Absent notice of a proposed date of decommissioning, the project shall be considered abandoned when the project fails to operate for more than one year without the written approval of the zoning administrator. The zoning administrator shall determine in its decision what proportion of the project is inoperable for the project to be considered abandoned. If the property owner/project owner fails to remove the WECS in accordance with the requirements of this section within 60 days of abandonment or the proposed date of decommissioning, the county shall have the authority to enter the property and physically remove the WECS.

e. *Decommissioning plan.* The plan shall outline the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be 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. The plan shall also address road maintenance during and after completion of the decommissioning in compliance with this article.

f. *Financial surety.* The applicant shall provide a bond in the amount of $50,000.00, payable to the county, per commercial wind turbine or an amount to be determined by the county, to cover the cost of removal in the event the county must remove the WECS. The applicant shall submit a fully inclusive estimate of the costs associated with removal prepared by a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The cost estimate for removal shall include an adjustment for inflation over the expected life of the project.

(Ord. No. 2015-01, § 8, 12-1-2015)

Sec. 26-56. - Flicker analysis.

A flicker analysis shall include the duration and location of flicker potential for all receptors and road ways within a one-mile radius of each turbine within a project. The applicant shall provide a site map identifying the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall account for topography but not for obstacles such as accessory structures and trees. Flicker at any receptor shall not exceed 30 hours per year within the analysis area.

(Ord. No. 2015-01, § 8, 12-1-2015)

Sec. 26-57. - Additional standards for commercial WECS projects.

(a) *Preliminary acoustic studies.* An acoustic study that demonstrates the project will be compliant with Minnesota Rules 7030, as amended. This shall include the estimated dB(A) levels at all receptors within a one-mile of the nearest turbine within a project area and shall include accumulated sound within the project.

(b) *Local emergency services notification.*

(1) The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire department(s), that serve the WECS project area.

(2) The applicant shall coordinate with local emergency services to develop and implement an emergency response plan for the WECS project. A copy of the plan shall be submitted to the environmental services department.

(c) *Pre-construction meeting.* The applicant shall conduct a pre-construction meeting prior to construction commencement with a written notice sent to the following individuals a minimum of one week prior to said meeting:

(1) Township chairman.

(2) County public works director.

(3) County sheriff.

(4) County zoning administrator.

(5) Area hydrologist, Minnesota Department of Natural Resources.

(6) Minnesota Pollution Control Agency.

(7) United States Farm Service Agency.

(8) County Soil & Water Conservation District.

(9) United States Fish & Wildlife Service.

(10) Minnesota State Historical Society.

(11) Minnesota Department of Transportation.

(Ord. No. 2015-01, § 8, 12-1-2015)

Sec. 26-58. - Other applicable standards.

(a) *Other signage.* All signage on site shall comply with chapter 28, article II of the County Code of Ordinances. The manufacturers' or owner's company name and/or logo may be placed upon the nacelle, the compartment containing the electrical generator, of the WECS.

(b) *Power lines.* All power lines associated with the WECS subject to county authority equal to or less than 34.5 kV in capacity shall be buried and located within the right-of-way, subject to prior approval of the road authority. Power lines installed as part of a WECS shall not be considered an essential service. If not buried, the applicant/owner must apply for a variance and shall follow chapter 42 article XI of the County Code of Ordinances for variance procedures.

(c) *Waste disposal.* Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

(d) *Orderly development.* Upon issuance of a conditional use permit, all WECS, as defined by M.S.A § 216F, as amended, if applicable shall notify the state public utilities commission (PUC) energy facilities permitting program staff of the project location and details on the survey form specified by the PUC.

(e) *Noise.* All WECS shall comply with Minnesota Rule 7030, as amended, governing noise.

(f) *Electrical code and standards.* All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

(g) *Federal Aviation Administration.* All WECS shall comply with FAA standards and permits.

(Ord. No. 2015-01, § 8, 12-1-2015)

Sec. 26-59. - Avoidance and mitigation of damages to public infrastructure.

(a) *Roads.*

(1) Identify all public roads to be used for the purpose of transporting WECS, substation parts, materials, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction. Signed agreement required.

(2) Contact the road authority for road closures, road signage removals, road signage re-locating, road signage restoring, moving permits, culverts, access/driveway permits, tile outlet permits, widening road intersections, standard utility permits and any other road activities that may require permits.

(3) Contact the county dispatch prior to any road closures for the re-routing of emergency vehicles during the closure.

(4) Contact the road authority to conduct an inspection of the road conditions of the haul routes prior to and after construction.

(5) The applicant shall retain a registered engineer to analyze bridges along the haul routes to determine if the bridges have the capacity to support the oversized vehicles. The applicant shall provide a signed report by the registered engineer to the road authority prior to the use of the bridges identified on the haul routes.

(6) Provide a bond, in an amount determined by the road authority, to be held by the county until the township and/or county road authority(ies) have provided the county auditor-treasurer with a written release that all haul routes within their jurisdiction in the county have been returned to pre-construction condition.

(b) *Drainage system.*

(1) The applicant shall be responsible for immediate repair of damage to public and private drainage systems stemming from construction, operation, maintenance, or decommissioning.

(Ord. No. 2015-01, § 8, 12-1-2015)

Sec. 26-60. - Interference.

The applicant shall minimize or mitigate interference with electromagnetic communications including, but not limited to radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within a five-mile radius of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with county or state department of transportation microwave transmissions.

(Ord. No. 2015-01, § 8, 12-1-2015)

Secs. 26-61—26-70. - Reserved.

Division 5. - SOLAR ENERGY SYSTEMS STANDARDS

Sec. 26-71. - Permitted and conditional uses.

Solar energy systems will be permitted, conditionally permitted, or not permitted based on the land use district as established in the tables below (P = Permitted, C = Conditionally Permitted, NP = Not Permitted):

District	Solar Energy System, Small	Solar Energy System, Midsize	Solar Energy System, Large	Solar Energy System, Reflecting
A Agricultural	P	P	C	C
R-1 Rural Residence	P	NP	NP	NP
R-2 Suburban Residence District	P	NP	NP	NP

R-H Rural Country Homes **	P	C	NP	NP
B-1 General Business District	P	P	C	NP
B-2 Highway Business District	P	P	C	NP
I-1 Light Industrial District	P	P	C	NP
I-2 Industrial District	P	P	C	NP
UR Urban Expansion District 1	P	P	Refer to base zone	NP
UR Expansion District 2	P	P	Refer to base zone	NP
UR Expansion District 3	P	P	Refer to base zone	NP
FP Floodplain	NP	NP	NP	NP
S Shoreland District	P	C	C	NP

SETBACKS*

Setback Type	**Solar Energy System, Small**	**Solar Energy System, Midsize**	**Solar Energy System, Large**	**Solar Energy System, Reflecting**
Project boundary/property lines	15'	100'	100'	500'
Road right-of-way	District setback	District setback	100'	500'

Other right-of-way (railroads, power lines, recreational trails, etc.)	50'	50'	50'	500'
Public Conservation Lands	100'	100'	100'	500'
Wetlands, USFW types III, IV, and V	100'	100'	100'	500'
Public drainage ditch	50'	50'	50'	50'
Public drainage tile	30'	30'	30'	30'
Primary structure on adjacent properties in R-H, R-1, and R-2 zones	100'	200'	N/A	500'
Primary structure on adjacent properties in "A" zone	100'	200'	750'	500'
Primary structure on adjacent properties in PD, I, B-1, and B-2 zones.	100'	200'	500'	500'
Municipality, residential zone, campgrounds, churches, health care facilities	100'	200'	500'	1000'

***Exception:** Wall or roof mount non-reflective systems.

(Ord. No. 2015-01, § 9, 12-1-2015)

Sec. 26-72. - General standards.

The following standards shall be applicable to all solar energy systems:

(1) Systems shall be designed and operated in a manner that protects public safety.

(2) Systems shall be in compliance with any applicable local, state and federal regulatory standards, including, but not limited to, the State of Minnesota Building Code, as amended, and the National Electric Code, as amended.

(3) Systems that result in the creation of one or more acres of impervious surface, must comply with the MPCA construction stormwater permit requirements.

(4) Systems shall not be used to display advertising, including; signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The

manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulations.

(5) Tree removal shall be minimized and mitigated in accordance with conditional use permit requirements. But removal shall at no time exceed 25 percent of any trees within 100 feet of the solar array footprint.

(6) The applicant shall submit a decommissioning plan, per the standards of this article, with the permit application.

(Ord. No. 2015-01, § 9, 12-1-2015)

Sec. 26-73. - Roof-mounted solar energy systems.

The following standards shall apply to roof-mounted solar energy systems:

(1) Roof-mounted solar energy systems shall not exceed by more than four feet the maximum allowed height in any zoning district.

(2) In addition to the structure setback, the collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the structure on which the system is mounted or built, except for when such an extension is designed as an awning.

(3) The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two feet.

(4) Exterior piping for roof-mounted solar hot water systems may extend beyond the perimeter of the structure on side and rear yard exposures.

(5) Roof-mounted solar systems, excluding building-integrated systems, shall not cover more than 80 percent of the south-facing or flat roof upon which the collectors are mounted.

(Ord. No. 2015-01, § 9, 12-1-2015)

Sec. 26-74. - Ground-mounted and pole-mounted solar energy systems.

The following standards shall apply to ground and pole-mounted solar energy systems:

(1) Ground and pole-mounted systems shall not exceed 20 feet in height when oriented at maximum design tilt.

(2) Ground and pole-mounted systems shall not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.

(3) The total collector surface area of pole or ground mount systems shall not exceed 50 percent of the building footprint of the principal structure in the following zoning districts:

a. R-1, Rural Residence.

b. R-2, Suburban Residence.

(4) Ground and pole-mounted systems shall have natural ground cover under and between the collectors and surrounding the system's foundation or mounting device(s).

(Ord. No. 2015-01, § 9, 12-1-2015)

Sec. 26-75. - Wall-mounted solar energy systems.

The following standard shall apply to wall-mounted solar energy systems:

(1) In residential zoning districts, wall-mounted solar energy systems shall cover no more than 25 percent of any exterior wall facing a front yard.

(Ord. No. 2015-01, § 9, 12-1-2015)

Sec. 26-76. - Accessory solar energy systems.

The following standards shall apply to accessory solar energy systems:

(1) Accessory solar energy systems must meet all setback requirements pertinent to accessory structures for the zoning district.

(2) Solar energy systems do not count as an accessory structure for the purpose of meeting limits on the total square footage of accessory structures allowed per residential lot.

(3) Accessory solar energy systems shall not be located nearer the front lot line than the principal building on the lot. This requirement shall apply to the following zoning districts:

a. R-1, Rural Residence.

b. R-2, Suburban Residence.

c. R-H, Rural Homes.

(Ord. No. 2015-01, § 9, 12-1-2015)

Sec. 26-77. - Large solar energy systems.

The following standards shall apply to large solar energy systems:

(1) All elements of the system shall meet or exceed all district regulations based on the applicable zoning district.

(2) Systems shall meet the requirements of the MPCA construction stormwater permit requirements.

(3) Systems shall meet the requirements for erosion and sediment control.

(4) The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar energy system is within accepted professional standards, given local soil and climate conditions.

(5) Power and communication lines running between banks of solar collectors and to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

(6) Vegetative screening of the system may be required as a part of the conditions of approval. It shall be based on the proximity of the system to residential buildings and to abutting public rights-of-way. The vegetation shall consist of canopy and conifer trees.

(Ord. No. 2015-01, § 9, 12-1-2015)

Sec. 26-78. - Photovoltaic solar energy systems.

The following standards shall apply to photovoltaic solar energy systems:

(1) For photovoltaic solar energy systems, the electrical disconnect switch shall be clearly identified and unobstructed.

(2) No grid-intertie photovoltaic solar energy system shall be installed until documentation has been given to the zoning administrator that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Documentation may consist of an interconnection agreement or a written explanation from the utility provider or contractor outlining why an interconnection agreement is not necessary. Off-grid systems are exempt from this requirement.

(3) Photovoltaic solar energy system components must have an Underwriters Laboratory (UL) listing and solar hot water systems must have a Solar Rating & Certification Corporation (SRCC) rating.

(Ord. No. 2015-01, § 9, 12-1-2015)

Sec. 26-79. - Reflecting solar energy systems.

The following standards shall apply to reflecting solar energy systems:

(1) Systems shall be designed and operated to prevent the misdirection of reflected solar radiation onto adjacent or nearby property, public roads, or other areas open to the public.

(Ord. No. 2015-01, § 9, 12-1-2015)

Sec. 26-80. - Decommissioning.

A decommissioning plan shall be submitted with all applications for a solar energy system.

(1) Decommissioning plans shall outline the anticipated means and cost of removing the system at the end of its serviceable life or upon its becoming a discontinued use. The cost estimates shall be 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 system.

(2) Decommissioning of the system must occur within 60 days from either of the following:

   a. The end of the system's serviceable life; or

   b. The system becomes a discontinued use.

(3) A system shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the zoning administrator outlining the steps and schedule for returning the system to service.

(4) Decommissioning shall consist of the following:

   a. The removal of the system's foundation. An exemption from this requirement may be granted by the conditional use permit granting authority if it is determined that the removal of the foundation will significantly increase erosion and/or significantly disrupt vegetation on the site.

   b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

   c. The stabilization of soils and/or re-vegetation of the site as necessary to minimize erosion. The conditional use permit granting authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

(5) The board may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper decommissioning.

(Ord. No. 2015-01, § 9, 12-1-2015)

Chapter 28 - ROADS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. - IN GENERAL

Secs. 28-1—28-18. - Reserved.

ARTICLE II. - RURAL ADDRESSING

DIVISION 1. - GENERALLY

Sec. 28-19. - Purpose, scope, and statutory authorization.

The purpose of these regulations is to provide for the establishment of an official plan for a coordinated system of road numbers or names and house or property numbers in the unincorporated areas of the county, and to provide for the administration thereof. This article has been designed to be compatible with the enhanced 911 emergency telephone system established by M.S.A. ch. 403. The rural addressing ordinance of the county is adopted pursuant to authority contained in M.S.A. ch. 394, commonly known as the county planning and zoning enabling legislation. The effective date of the article is the date of adoption by the county board.

(Res. No. 01-166, § 1(0500.0101), 10-23-2001)

Sec. 28-20. - Definitions.

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

County engineer means the registered professional engineer employed by the county unless otherwise stated.

Emergency services agency, public or private, means any agency providing police, fire, rescue, or emergency medical services; whose service area boundaries are established by state statute or the commissioner of public safety and which is dispatched through the public safety answering point (PSAP).

Emergency service number or area (ESN) means the area included within the boundaries of a specified area served by public or private emergency services agencies.

Environmental services department means the organization of the planning commission and staff of the environmental services department.

Pedestrian way means a public right-of-way across or within a block to be used by pedestrians.

Right-of-way means the land covered by a public road or other land dedicated for public use or for certain private use the as land over which a power line passes.

Subdivider means any person proceeding under this article to effect a subdivision of land for himself or for another.

Subdivision means a platted development of small lots, out lots, and streets approved by the county board and recorded in the county recorder's office that may or may not be based on a generalized base of grid pattern street systems.

Utilities refers to all utility services providers, whether the same be government owned facilities or furnished by private utility companies.

(Res. No. 01-166, § 3(0500.0301), 10-23-2001)

Sec. 28-21. - Policies.

It is the policy of the county board that:

(1) The rural addressing ordinance, hereafter referred to as "this article," shall be used for the naming and numbering of all roads and structures within the unincorporated areas of the county.

(2) The county shall fund all costs relating to the initial procurement and installation of the numbering system. The property owner for residential signs or appropriate road authority for intersection signs shall pay for replacement costs and new installations.

(3) All persons, firms, corporations, and other legal entities constructing new structures in unincorporated areas of the county shall obtain an address notification form, issued by the office of environmental services.

(4) No utility company operating in the county shall furnish its utility services to any new structure or manufactured home, including a stick-built residence or manufactured home that is moved from one location to another in an unincorporated area, until it has been issued a valid address by the office of environmental services.

(5) The office of environmental services shall furnish the applicant with sufficient copies of the address notification form necessary to present to the utility companies. The office of environmental services will also notify appropriate U.S. postal service representatives, the county law enforcement center representatives, the county highway department, the county assessor's department, and the county auditor-treasurer's department. The office of environmental services shall maintain a record of all addresses issued.

(Res. No. 01-166, § 1(0500.0102), 10-23-2001)

Sec. 28-22. - Administration.

The office of environmental services by authority of the county board of commissioners shall administer this article. The planning commission, the county law enforcement center, the county highway department, the county assessor's department, the county attorney's office and the county auditor-treasurer's department shall provide technical assistance to the environmental services department.

(Res. No. 01-166, § 4(0500.0401), 10-23-2001)

Sec. 28-23. - Official map.

The county board shall adopt an official road naming and numbering map that documents the assigned names or numbers for all roads within the unincorporated area of the county. The map shall constitute the official plan of road naming and numbering. The map may be divided into townships, subdivisions, or other units each separately identified as a portion of the official map.

(Res. No. 01-166, § 4(0500.0402), 10-23-2001)

Sec. 28-24. - Posting of designated address numbers.

The owner or occupant or person in charge of any house, building or other structure to which a number has been assigned shall:

(1) Within 30 days after the receipt or notification of the number, erect a sign or number post which will allow the numbers to be horizontally affixed at the location specified in exhibit 0500.0702, section 28-115.

(2) Remove any different number that might be mistaken for or confused with the number assigned to the structure by the issuing authority.

(3) Assume costs of individual rural address numbers and other related signing materials. Costs for materials shall be paid by the property owner (except for the initial implementation by the county's contractor) to the environmental services department as part of the building permit fee.

(Res. No. 01-166, § 4(0500.0403), 10-23-2001)

Sec. 28-25. - Compliance.

The county rural addressing datum base and this article shall be used for the naming and numbering of all roads and structures within the unincorporated areas of the county.

(1) All persons, firms, corporations, and other legal entities constructing new structures in unincorporated areas of the county shall obtain an address notification form, issued by the office of the environmental services. Coordinates shall be verified and addresses issued by the office of environmental services as part of the construction permit issuance process when application is made to locate a new residence or other commercial venture within the county.

(2) No utility company operating in the county shall furnish its utility services to any new structure or manufactured home, including a stick-built residence or manufactured home that is moved from one location to another in an unincorporated area, until it has been issued a valid address by the office of the environmental services.

(3) When a new subdivision plat is recorded or whenever a new road is established by other means it shall be the responsibility of the subdivider or individual petitioning to establish the road to provide a sign which conforms to the county design and placement standards for street signs contained in article IV of this chapter.

(4) In the event that the owner or occupant or person in charge of any house or building refuses to comply with the terms of this article by failing to affix the number assigned within 30 days after notification, or by failing within the period of 30 days to remove any old numbers affixed to the house, or house entrance, or elsewhere, which may be confused with the number assigned thereto, the owner or occupant shall be assessed all reasonable costs for any work by county personnel, necessary to comply with this article.

(5) Every owner of a structure shall be responsible to maintain in the original location as placed by the county's contractor or in the location specified by section 28-115, the rural address number assigned to the location. Brush, branches, weeds, snow or other obstructions shall be maintained by the owner so sign remains legible at all times. Missing or illegible signs shall be replaced as soon as practical, but in no event later than ten days after written notice requesting the replacement. Failure to comply with the terms of this article shall be assessed to the owner or occupant all costs for any work by county employees, necessary to comply with this article.

(6) Willful disregard or repeated violation of this article after written notice of the violation and failure to perform the duties described in subsections (4) and (5) of this section may result in the criminal prosecution as a misdemeanor as defined by state statutes.

(Res. No. 01-166, § 4(0500.0404), 10-23-2001; Ord. No. 2015-02, 12-1-2015)

Sec. 28-26. - Existing street names.

Existing subdivisions with interior roadways, names of which are recorded on the original subdivision plat in the county recorder's office, are accepted as is unless changed by resolution of the county board.

(Res. No. 01-166, § 4(0500.0405), 10-23-2001)

Secs. 28-27—28-55. - Reserved.

DIVISION 2. - PROCEDURE

Sec. 28-56. - Assignment of rural addresses.

Road names and addresses for existing roads and structures in the county will be provided. Future addresses shall be applied for and assigned pursuant to the following process:

(1) Applicants shall request the address application and notification form from the office of environmental services. Application may be made via telephone, internet, in person or in writing. The office of environmental services shall furnish the applicant with sufficient copies of the address notification form to present to pertinent utility companies. The office of environmental services will also notify appropriate U.S. postal service representatives, the county law enforcement center representatives, the county highway department, the county assessor's department, and the county auditor-treasurer's department. Addresses shall typically be issued concurrent with issuance of construction permits after site inspection and verification of structure coordinates.

(2) When a request is made for an address, the legal description or tax parcel identification number of the property shall be furnished by the property owner to enable staff to verify the location of the structure or property requiring the address.

(3) As soon as is practically possible after request for an address has been made and all required information proved by the applicant, the address shall be determined and assigned.

(Res. No. 01-166, § 5(0500.0501), 10-23-2001)

Sec. 28-57. - Road naming and numbering criteria (general).

The road numbering system shall be implemented as per the example shown in section 28-114.

(1) All roadways that run primarily east/west shall be identified as streets and numbered by rounding off to the nearest tenth of a mile beginning with 100th street on the south county border extending to 340th Street on the north county border. Pre- and post-directionals (N, S, E, W) shall not be used for any road names in the county.

(2) All roadways that run primarily north/south shall be identified as avenues and numbered by rounding off to the nearest tenth of a mile beginning with 610th avenue on the west county border extending to 910th Avenue on the east county border (this road will however be named Mower-Freeborn Road).

(Res. No. 01-166, § 5(0500.0502), 10-23-2001)

Sec. 28-58. - Road naming and numbering criteria (subdivisions).

All roads within subdivisions that can be conveniently named or numbered in compliance with the above referenced county rural addressing datum base shall be so named.

(1) *Alternate road names permitted within subdivisions.* Because circular, cul-de-sac, loop, and curvilinear street patterns are typically utilized in subdivision design, and the county rural

addressing datum base may be difficult to apply in subdivisions due to density and lack of uniformity in street patterns, a system of hierarchal order will be implemented to establish a consistent nomenclature in street types which will promote an easier process of street labeling and identification. All street terminologies will be in accordance with the hierarchical order name associated with the dimensional site and traffic use (present or anticipated). Use of this descending order of naming streets will provide a consistent method and will provide public safety officials a spontaneous and immediate reference to anticipate traffic flows and street configuration encounters.

(2) *Suggested road name themes.* In larger subdivisions, a name theme is suggested (i.e., trees, birds, states, flowers, presidents, etc.).

(3) *Exceptions.* Exceptions or additions to the above-mentioned terminologies will be at the discretion of the county board per a recommendation from the county planning commission and environmental services.

(Res. No. 01-166, § 5(0500.0503), 10-23-2001)

Sec. 28-59. - Road name establishment.

(a) Road names other than as set forth in the county rural addressing datum base, section 28-57, shall be instituted through at least one public meeting held by the planning commission. The county board shall grant final approval.

(b) Road naming shall be established only after public hearing and through recording of subdivision maps.

(c) Whenever it is necessary to hold public hearings for purposes of creating alternate road names, or to re-name existing roadways, hearings pursuant to requirements of M.S.A. ch. 394 shall be held.

(Res. No. 01-166, § 5(0500.0504), 10-23-2001)

Sec. 28-60. - Prohibited road naming.

(a) Street names may not be duplicated with that of any presently represented streets, avenues, roads, drives, circles, courts, etc., in the county or any of the communities or subdivision within its generic boundaries.

(b) Duplication of names shall not be permitted unless the proposed name is in general alignment of or a continuation of the existing named road.

(c) Different names may not be approved for a proposed road in any geographic area of the county if that road is in effect a continuation of, projection of, or could be related in any way to the alignment of an existing named road.

(d) Names with similar spellings, pronunciations or meanings may be construed as being duplications.

(e) Street names shall not exceed 16 characters in length to facilitate signing (including street nomenclature abbreviation).

(Res. No. 01-166, § 5(0500.0505), 10-23-2001)

Sec. 28-61. - Road name records.

The office of environmental services shall keep a record of the names or numbers of all roads in the county. When any new road is proposed by submittal of subdivision plat, or otherwise proposed by any person, governmental body, or department, the proposal shall be referred to staff to be checked for duplication, spelling, and conformity with this division.

(Res. No. 01-166, § 5(0500.0506), 10-23-2001)

Sec. 28-62. - Structure numbering system (general).

(a) *Numbering criteria.* All structure numbers shall be determined and assigned based on the county rural addressing datum base unless otherwise approved by the county board. All house numbers must meet design and placement specifications as set forth in section 28-115.

(b) *Determination of structure number coordinates.* The coordinates for the structure number shall be taken from the point where the road centerline and driveway centerline intersect as set forth in section 28-114, the county numbering example.

(1) Houses on a north/south road will be numbered by rounding off their northerly coordinates to the thousandths of a mile.

(2) Houses on an east/west road will be numbered by rounding off their easterly coordinates to the thousandths of a mile.

(3) Houses on the northerly and westerly sides of the road get even numbers.

(4) Houses on the southerly and easterly sides of the road get odd numbers.

(5) The first three digits of a house number shall be between the numbers of the streets or avenues that the house falls between.

(6) If two or more houses share a driveway, they will be given house numbers 20 feet apart in relation to their positions.

(Res. No. 01-166, § 5(0500.0507), 10-23-2001)

Sec. 28-63. - Structure numbering system (subdivisions).

When variation from the coordinate-based numbering system is approved for large subdivisions, the following section shall be utilized. Under the guidelines of this street numbering system, the frontage along the street is given a number rather than a particular structure. This principle is in recognition of the fact that there is no good way of knowing how many structures will eventually be built on vacant land within a subdivision, and that any numbering scheme which attempts to number structures consecutively must leave flexibility to accommodate change. By assuming a property number to an interval of front footage along the street, a system is established whereby change and growth are conveniently handled. By using increments of 50 feet in low density residential areas as exist in most county subdivisions, a suitable number interval will be derived. Haphazard changes in increment intervals should be avoided to promote consistence and order in the numbering system.

(1) *Structure numbering procedure.* At the beginning of the street that is going to be numbered, the footage increments on the southerly and easterly sides of the street will be odd numbered. Numbers on the northerly and westerly sides of the streets will be even numbered. The procedure is extended throughout the subdivision.

(2) *Intersecting streets.* The first encountered street in the subdivision will be a 100 number, next encountered street 200 and so forth.

a. Increment intervals at the intersection and around loops and certain curvilinear streets may require some numbering manipulation to maintain alternating number sequence logic from even and odd sides of the street.

b. Corner lot addresses will be determined on the basis of which street the house faces.

(Res. No. 01-166, § 5(0500.0508), 10-23-2001)

Secs. 28-64—28-84. - Reserved.

ARTICLE III. - SIGNING

Sec. 28-85. - Identification signs.

(a) The county board shall adopt a standard for county road and house number sign design and a standard for sign placement as designated by this article. The adopted sign design standard shall be designated as set forth in section 28-115.

(b) County road sign specifications shall be as adopted by the county board and constructed as specified in section 28-115.

(c) The county board shall adopt a standard for house number signs as designated by this article. The adopted house number sign design standard shall be designated as specified in exhibit 0500.0702, section 28-115.

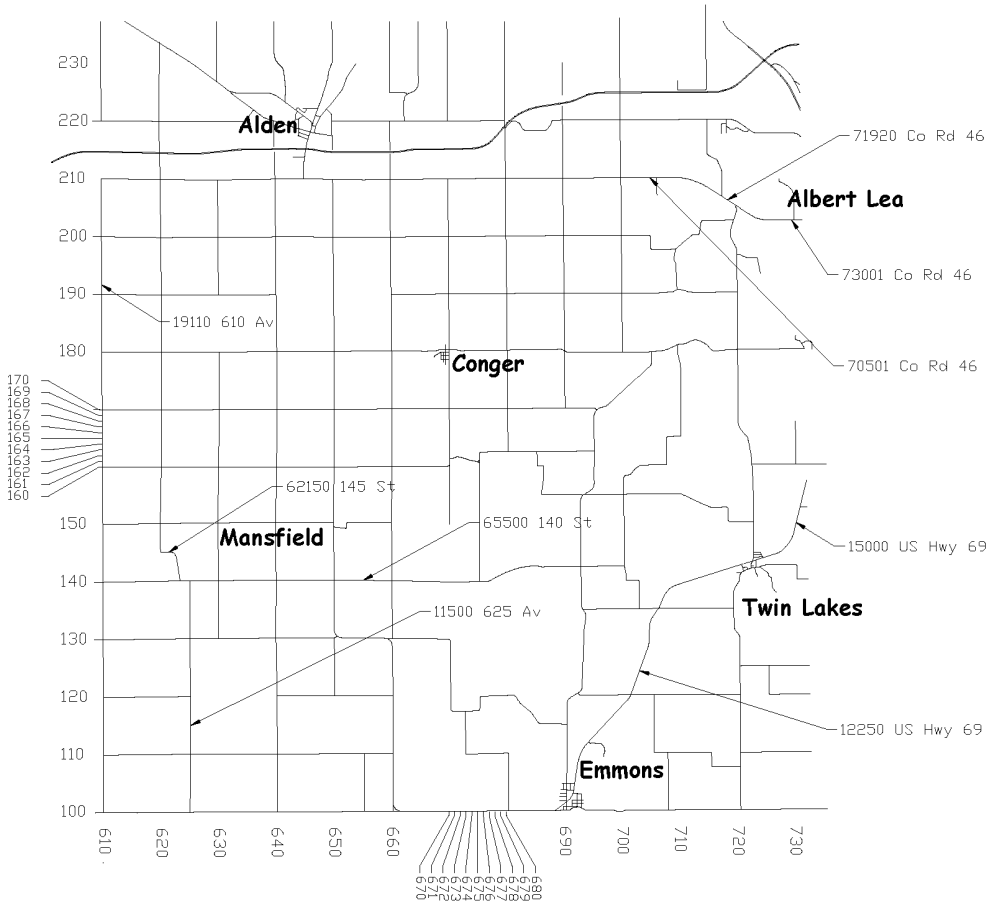
(d) House number sign specifications shall be as adopted by the county board and as specified in section 28-115. Signs shall be mounted and placed as specified in section 28-115.

(Res. No. 01-166, § 6(0500.0601), 10-23-2001)

Secs. 28-86—28-113. - Reserved.

ARTICLE IV. - SIGNING AND NUMBERING SPECIFICATIONS

Sec. 28-114. - County numbering example.


Alden
71920 Co Rd 46
Albert Lea
73001 Co Rd 46
19110 610 Av
Conger
70501 Co Rd 46
62150 145 St
Mansfield
65500 140 St
15000 US Hwy 69
Twin Lakes
11500 625 Av
12250 US Hwy 69
Emmons
230
220
210
200
190
180
170
169
168
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620
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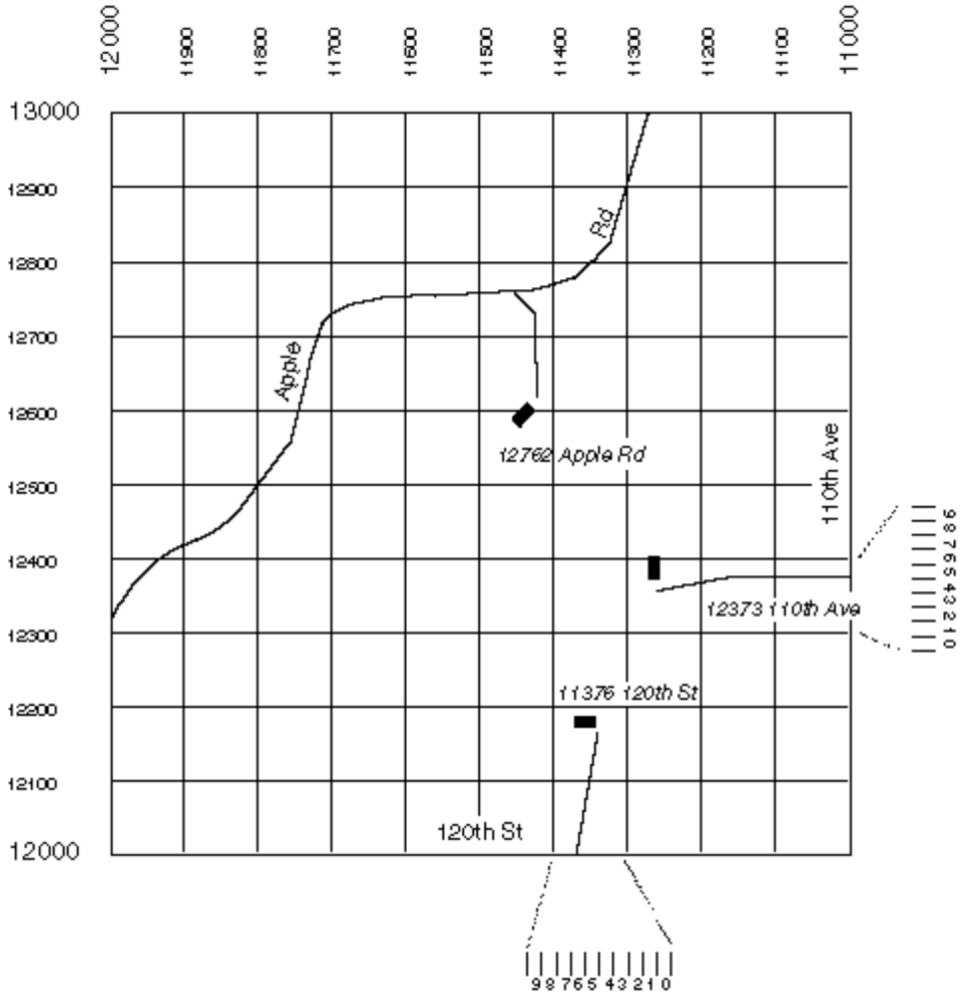
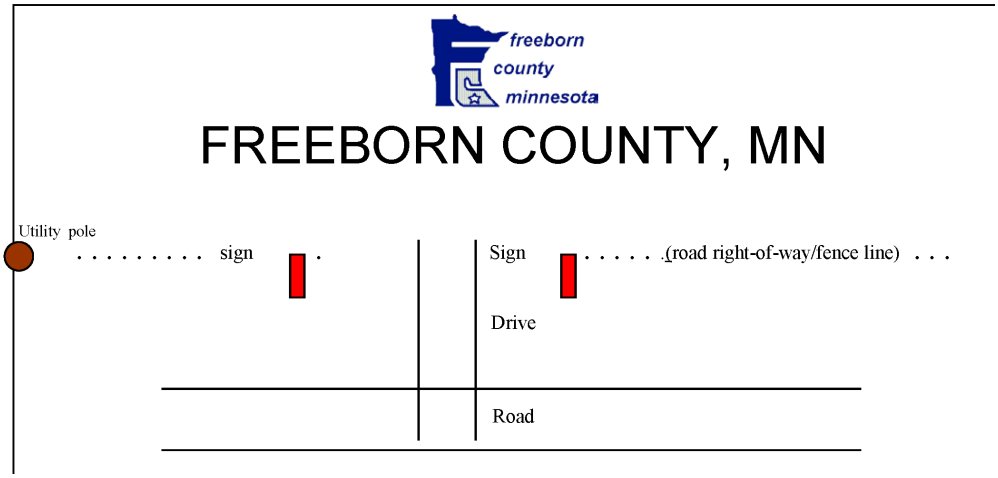
700
710
720
730



Example: 12762 Apple Rd. 11376 120th St.

(Res. No. 01-166, §7(0500.0701), 10-23-2001)

Sec. 28-115. - Countywide signing example.



(Res. No. 01-166, § 7(0500.0702), 10-23-2001)

Sec. 28-116. - Numbering specifications.

The county addressing scheme is to have five-digit addresses throughout the county. The system starts with 10000 - 61000 in the SW corner of the county and increases ten numbers every mile north and west. This allows for 1,000 numbers per mile, 500 per side of the road. Avenues will run north and south while streets will run east and west and have named roads only where applicable by variation from the grid system. The range of addresses from this are 10000 to 10999, 11000 to 11999, etc. Along with this numbering system, the even sides of the road would be the north and east and the odd sides of the road would be the south and the west.

(Res. No. 01-166, § 7(0500.0701), 10-23-2001)

Sec. 28-117. - Countywide signing specifications.

(a) Rural address signs must be placed in the road right-of-way within two feet of the private property line and to the right or left side of the driveway. The road right-of-way can be determined by observing an existing fence line, a power or utility pole or measuring from the center of the road.

(b) A gopher one call is required before the address sign post can be installed. Call 1-800-252-1166 at least 24 hours before installing.

(c) Address signs must be placed parallel with, and six to 16 feet on either side of the driveway so they can be easily read from the road when approaching.

(d) Address signs must be placed on a post at least three feet from the ground and no higher than five feet high. The address sign post must not contain any other signs. It is illegal to place an address sign on a utility pole, fence post, a mail box post, or across the road from the driveway. Address signs must be installed on the supplied post. By county ordinance, any sign not meeting the above requirements will be re-located by county staff, and the costs assessed to the property taxes of the homeowner.

(e) If you are unable to meet the above requirements, contact the environmental services department at 1-507-377-5186 for assistance.

(Res. No. 01-166, § 7(exh. 0500.0702), 10-23-2001; Ord. No. 2015-02, 12-1-2015)

Chapter 30 - SIGNS

Sec. 30-1. - Regulations.

(a) *Generally.*

(1) All signs hereinafter erected, altered, substantially repaired, relocated or maintained shall conform to the provisions of this chapter. No sign shall be allowed in any zoning district unless it is a permitted use, conditionally permitted use or accessory use established in accordance with the provisions of this chapter.

(2) All sign locations shall be kept free from unreasonable growth, debris or rubbish. Failure to correct such conditions after being so directed in writing by the planning and zoning administrator shall be cause for revocation of the existing permit and removal of signs on said locations.

(3) All signs shall be properly identified stating the name and address of the individual or firm responsible for the sign.

(4) Private signs other than underground utility warning signs are prohibited within public right-of-way and easements; provided, however, such underground utility is located within such right-of-way or easement.

(5) Illuminated signs may be permitted in the "I," "B-1," and "B-2" zones or in the "A" zone in conjunction with a conditionally permitted use; devices giving off an intermittent or rotating beam of rays of light, or scrolling types shall be prohibited. Changing message signs are allowed under the above conditions if the message changes no more frequently that once every seven seconds.

(6) No sign shall, by reason of position, shape or color, interfere in any way with the proper functioning or purpose of a traffic sign or signal.

(7) Signs shall not be painted on fences, rocks, or similar structures or features nor shall paper or similar signs be attached directly to a building wall by an adhesive or similar means.

(8) No lighting for signs shall directly reflect light beams onto any public road or highway.

(9) All signs shall be located outside of any public right-of-way, except as otherwise allowed in this section.

(10) No sign in excess of three square feet shall be less than 300 feet from the intersection of two or more public roads or less than 300 feet from the intersection of a public road and a railroad, provided that advertising may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.

(11) No sign or portion thereof shall be located within 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(b) *Permitted signs.* The following signs are allowed without a permit but shall comply with all other applicable provisions of this section:

(1) *Government signs.* Signs of a public, noncommercial nature to include safety signs, danger signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when such signs are erected by or on order of a public officer or employee in the performance of their official duties.

(2) *Directory signs.* A wall sign which identifies the business, owners, manager, or resident occupant and sets forth the occupation or other address information but contains no advertising. There may be one directory sign per zoning lot not to exceed two square feet per business or resident occupant. Home occupations may display a directory sign.

(3) *Directional and parking signs (on-site).* On-site directional and parking signs intended to facilitate the movement of vehicles and pedestrians upon which the sign is located. Such signs shall not exceed six square feet in total area.

(4) *Integral signs.* Names of buildings, date of construction, commemorative tablets and the like, which are part of the building or structure.

(5) *Real estate signs.* For the purpose of selling, renting, or leasing a single parcel, a sign not in excess of 25 square feet per surface may be placed in the front yard.

(6) *Construction signs.* For the purpose of selling or promoting a residential project, commercial area or an industrial area, one sign not to exceed 240 square feet of surface may be erected upon the project site.

(7) *Election signs.* Election signs are permitted in all districts, provided such signs are removed within ten days following the election. No election signs shall be permitted more than two months preceding the election the sign relates to.

(8) *Agricultural product signs.* Signs indicating that the proprietor of a farm is a dealer in seed, fertilizer or other agricultural products only when such dealership is incidental to the primary agricultural business of the farm.

(9) *Crop demonstration signs.* Any farm crop demonstration sign for information use.

(10) *Holiday signs.* Signs or displays which contain or depict messages pertaining to a national or state holiday and no other material. Such signs may be displayed for a period not exceeding 30 days.

(11) *Institutional signs.* Two of which one may be freestanding but not higher than 12 feet in the single or combined surface area shall not exceed 30 square feet.

(12) *Off-premises directional signs.* Off-premises business directional signs for providing direction to a permitted or conditionally permitted business are allowed, one per business, with the following conditions:

a. Signs shall be a maximum of three square feet and maximum of two colors, including background. Maximum height shall be 40 inches. Signs shall be non-illuminated and non-reflective.

b. Signs shall not be in any public road right-of-way.

c. Signs shall be on private property with landowner's permission, lease, rent, or agreement.

d. Signs shall be placed so as not to interfere with lines of sight at intersection. Signs shall be placed a minimum of 15 feet back of the intersecting point of the two intersecting roads right-of-way lines.

(c) *Signs allowed in the "FP" Floodplain, "A" Agricultural, "RH" Country Homes, "R-1" Rural Residence, "R-2" Suburban Residence and "UR" Urban/Rural Expansion Districts.*

(1) *Permitted signs.* Permitted signs as regulated by subsection (b) of this section.

(2) *Home occupation signs.* Home occupation signs as regulated in section 42-70.

(3) *Residential signs.*

a. One nameplate sign for each dwelling not to exceed two square feet in area per surface, and no sign shall be so constructed as to have more than two surfaces.

b. One nameplate sign for each dwelling group of six square feet in area per surface and no sign shall be so constructed as to have more than two surfaces.

c. One nameplate sign for each permitted nonresidential use or use by conditional use permit. Such sign shall not exceed 12 square feet in area per surface and no sign shall be so constructed as to have more than two surfaces.

d. Symbols, statues, sculptures and integrated architectural features on buildings may be illuminated by floodlights, provided the source of the light is not visible from the public right-of-way or adjacent property.

(d) *Signs allowed in the "B-1" General Business, "B-2" Highway Business and "I" Industry Districts.*

(1) *Permitted signs.* Permitted signs as regulated by subsection (b) of this section.

(2) *Business and industry signs.*

a. Sign structures developed on property for which the sign relates shall be limited to not more than one for a lot of 100-foot frontage or less and to only one per 100 feet of additional lot frontage. Such structure may not contain more than two signs per facing not exceeding 55 feet in total length.

b. No sign may be erected within 100 feet of an adjoining residential property.

c. Maximum size of a permitted sign, or total signage on a sign structure is 400 square feet of surface, including border area.

d. No sign shall exceed 35 feet in height.

e. Changing message signs are limited to 45 square feet.

(e) *General sign standards.* These standards shall apply to all signs except permitted signs as listed in subsection (b) of this section. No signs shall be erected on property for which the sign does not relate as follows:

(1) Closer than 300 feet from platted streets, roads and highways.

(2) Within 100 feet of property used for church or school purposes.

(3) Less than 800 feet from any other advertising devise on the same side of the right-of-way, except in the B-1, B-2 or I district.

(Ord. No. 15, art. 4, § 17, 1-19-2010)

Sec. 30-2. - Billboard advertising signs.

Billboard advertising signs may be erected on ground or wall locations but not roof locations in the B-1, B-2, I or U-2 district, subject to the following regulations:

(1) *Spacing.* Off-premises advertising signs on the same street, facing the same traffic flow shall not be placed closer together than 300 feet.

(2) *Double face signs.* Off-premises advertising signs can be double faced and each side shall be considered as facing traffic flowing in the opposite direction.

(3) *Size, height, and length of off-premises advertising signs.* In all zoning districts in which off-premises advertising signs are permitted, such signs shall not exceed 750 square feet in total area, including all faces, except on back-to-back signs, nor shall the height exceed the permitted height of any other freestanding sign in the zone the sign is located. No off-premises sign shall exceed 55 feet in length.

(4) *Setbacks.* Off-premises advertising signs shall conform to the districts they are located in.

(5) *Exclusionary areas.* No off-premises advertising signs shall be directed or maintained within 500 feet of any park or within 100 feet of any residential zone, church, school or playground.

(Ord. No. 15, art. 4, § 18, 1-19-2010)

Sec. 30-3. - Existing nonconforming signs.

Repair and/or replacement of nonconforming signs shall be in accordance with the "nonconformity section" of the zoning ordinance.

(Ord. No. 15, art. 4, § 19, 1-19-2010)

Sec. 30-4. - Inspection.

All signs for which a permit is required shall be subject to inspection by the planning and zoning administrator. The administrator or his duly authorized representative may enter upon any property or premises to ascertain whether the provisions of this chapter are being obeyed. Such entrance shall be made during business hours unless an emergency exists. The county shall order the removal of any sign that is not maintained in accordance with the maintenance provisions of sections 30-1 and 30-2. Notice shall be given to the county of any change in sign owner.

(Ord. No. 15, art. 4, § 20, 1-19-2010)

Chapter 32 - SOLID WASTE

ARTICLE I. - IN GENERAL

Sec. 32-1. - Purpose.

The county board has determined that the ordinance from which this chapter is derived is adopted for the purposes of:

(1) Protecting natural resources and improving the county's environment by promoting the health, welfare and safety of the public, including minimizing surface and groundwater contamination.

(2) Regulating the number, location and operation of solid waste facilities to protect the public's health and well-being.

(3) Preventing public nuisances.

(4) Ensuring that all individuals are informed and responsible for their actions regarding solid waste and establishing penalties for lack of compliance that may affect the environment and the community now and in the future.

(5) Encouraging the use and reuse of recyclable materials through a countywide recycling program and the provision of facilities to support those activities.

(6) Augmenting, supplementing and supporting state and federal regulations on solid waste issues, including the regulatory management hierarchy of reduction, prevention, reuse, recycling, processing and finally landfilling.

(Ord. No. 17a, art. 1, § 2, 6-11-2007)

Sec. 32-2. - Authority.

Authority for this chapter is based on M.S.A. §§ 400.16, 115a.931, and 115a.94, together with the general authority of counties to enact measures to implement the legislative policies of the state with respect to solid waste management. The policy of the county is to provide for the management of solid waste in a manner that will protect the public health, welfare and safety; prevent the spread of disease; prevent the creation of nuisances; conserve natural resources; and protect the state's water, air and land resources.

(Ord. No. 17a, art. 1, § 3, 6-11-2007)

Sec. 32-3. - Applicability.

This chapter shall apply to all areas of the county, including territory within all municipalities.

(Ord. No. 17a, art. 1, § 4, 6-11-2007)

Sec. 32-4. - Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of public health, safety, order, convenience and general welfare. When provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of the statute, other ordinance or regulation shall be controlling.

(Ord. No. 17a, art. 1, § 5, 6-11-2007)

Sec. 32-5. - Definitions.

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

Acceptable waste means those solid wastes that are not prohibited from processing or disposal as defined by a solid waste management facility pursuant to local, state and federal laws and the requirements of the facility.

Agency means the Minnesota Pollution Control Agency (MPCA).

Agricultural site means land zoned or operated for agricultural purposes, but excludes the residential site on the premises.

Air pollution means the presence in the outdoor atmosphere of any air contaminant or combination thereof in the quantity of the nature and duration, and under the conditions as would exceed state and federal limits.

Appliance means washers, dryers, electric and gas ranges or stoves, refrigerators, freezers, dehumidifiers, water heaters, residential furnaces, dishwashers, garbage disposals, trash compactors, microwave ovens and air conditioners.

Appliance storage facility means a facility for the storage of three or more inoperable appliances.

Cell means compacted solid wastes that are enclosed by cover material in a land disposal site and as regulated by the state pollution control agency.

Closure means the period after which solid wastes are no longer accepted during which time the permittee completes the required procedures as regulated by the state pollution control agency.

Collection means the aggregation of wastes from the place at which it is generated and includes all activities up to the time waste is delivered to a waste facility.

Commercial site means any business, commercial, industrial, institutional or governmental establishment. These include home-operated businesses, industries, commercial and institutional enterprises, and the nonresidential institutions, such as churches, nursing homes, nonprofit associations, schools and the like. If a site has dwelling units, but also has one or more units not used for dwelling purposes, such as a store or a restaurant, then it is considered a commercial site.

Compost facility means a site used to compost or co-compost solid waste, including all structures of processing equipment used to control drainage, collect and treat leachate, and storage areas for the incoming waste, the final product, and residuals resulting from the composting process.

Composting means the controlled microbial degradation of organic waste to yield a humus-like product.

Construction and demolition debris means solid waste resulting from construction, remodeling, repair, erection and demolition of buildings, roads and other artificial structures, including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rocks, plastic building parts, plumbing fixtures, roofing materials, wallboard and built-in cabinetry. The term "construction and demolition debris" does not include asbestos waste, auto glass, wood treated with chemical preservatives; furniture; lighting equipment; mattresses, adhesives, caulking, filters, agricultural chemicals or containers, animal carcasses, appliances, electronics, hazardous waste, household refuse or garbage; infectious waste, petroleum products and their containers, radioactive waste, waste tires; vehicles; yard waste; packaging materials. Mixtures of construction and demolition debris with other solid waste are not construction and demolition debris.

Cover material means material, as allowed by the agency, which is used to cover compacted solid waste in a land disposal site. Important general characteristics of good cover are low permeability, uniform texture, cohesiveness and compactibility.

Curbside collection means a mixed municipal solid waste, yard waste, or recyclable materials collection system whereby the generators set solid waste containers at the curb adjacent to a roadway or, where this is not practical, in locations easily accessible for collection by a hauler.

Daily cover means cover material that is spread and compacted on the top and side slopes of compacted solid waste at least at the end of each operating day in order to control vectors, fire, infiltration and erosion and to ensure an aesthetic appearance.

Department means the solid waste office or representative of the county who is authorized by this chapter or otherwise the board to represent the county in the enforcement or administration of this chapter.

Disposal or *dispose* means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any wastes into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including groundwater.

Disposal facility means a waste facility permitted by an agency that is designed or operated for the purpose of disposing of waste on or in the land, together with any appurtenant facilities needed to process waste for disposal or transfer to another waste facility.

Dump means an unpermitted land disposal site at which solid waste is disposed of in a manner that does not protect the environment, is susceptible to open burning and is exposed to the elements, insects, rodents and scavengers.

Dumping means the illegal placement of any solid waste, including construction and demolition debris, hazardous waste, industrial solid waste, mixed municipal solid waste, or recyclable materials, anywhere other than in an approved container or at a solid waste management facility during hours of operation.

Dwelling unit means one or more rooms within a structure which are arranged, designed or used as living quarters for one family.

Electronics means computers, televisions or other video display devices that contain a cathode ray tube or plasma screen over nine inches in diameter measured diagonally.

Family means any number of persons living together in rooms comprising a single housekeeping unit.

Farm means a parcel of land located in an agricultural zoning district as defined by chapter 42, zoning, used for the production, keeping or maintenance, for sale, lease, or personal use, of plants and animals useful to people, including, but not limited to, forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, or any mutations or hybrids thereof, including breeding and grazing of any or all of the animals; bees and apiary products; fur animals; trees and forest products.

Farmyard means the area of farm immediately around the residence where accessory buildings are located and are being used exclusively for agricultural operations and is ten acres or greater.

Garbage means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food or non-recyclable materials.

Generation means the act or process of producing wastes.

Generator means any person who produces wastes.

Groundwater means the water contained below the surface of the earth in the saturated zone, including, without limitation, all waters, whether confined, unconfined or perched conditions in near surface unconsolidated sediment or regolith or in rock formations deeper underground. The term "groundwater" is synonymous with the term "underground water."

Hauler means a commercial collector or transporter of any type of solid waste and licensed in the county, but does not include a self-hauler.

Hazardous waste has the meaning given it in M.S.A. §§ 115a.03(13) and 116.06(11).

Industrial waste means solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities, such as service and commercial establishments. The term "industrial waste" does not include office materials, restaurant waste, discarded machinery, demolition debris or household waste.

Junkyard means a place maintained for keeping, storing, or piling in commercial quantities, whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used, or secondhand material of any kind, including used motor vehicles, machinery of any kind, and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron or other metals, or articles which from its worn condition render it such that there is no substantial potential further use consistent with its usual, original function or reasonable reuse. This shall include a lot or yard for the keeping of unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment. Provided further that the storage of three or more inoperative and/or unlicensed motor vehicles or trailers for period in excess of two months shall also be considered a junkyard.

Land disposal site means a tract or parcel of land, including any construction facility, at which solid waste is disposed of in or on the land.

Mixed municipal solid waste (MSW) means garbage, refuse, recyclable materials and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed and disposed of as a separate waste stream, but does include source-separated compostable materials.

Non-farm dwelling unit means a household in an agricultural district where the primary use of the property is residential.

Non-recyclable materials means and includes solid waste, refuse, construction debris, and other materials for which there are no appropriate existing recycling markets.

Nonputrescible means solid waste, other than garbage, hazardous waste, industrial waste, mixed municipal solid waste, sludge or other special waste.

Open burning means burning any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through a stack, duct or chimney which meets state pollution control agency standards.

Operator means a person responsible for the overall operation of a facility.

Permit means written authority granted to an individual or firm to carry out activities within the county.

Permittee means a person, firm, corporation or organization that has been given authority by the board or the department to carry out any of the activities for which a permit is required under the provisions of this chapter.

Person means any individual, corporation, partnership, joint-venture, association, trust, unincorporated association or government or any agency or political subdivision thereof, including, without limitation, landfill operators, solid waste generators and haulers in the county.

Pollutant means any sewage, industrial waste, or mixed municipal solid waste that may be discharged into the environment.

Post-closure means the period after closure, during which, the long-term care, maintenance and monitoring of a site or facility takes place.

Problem material means a material that, when processed or disposed of with mixed municipal solid waste, contributes to one of the following results:

(1) The release of a hazardous substance, or pollutant or contaminant as defined in M.S.A. § 115b.02;

(2) Pollution of water as defined in M.S.A. § 115.01;

(3) Air pollution as defined in M.S.A. § 116.06; or

(4) A significant threat to the safe or efficient operation of a solid waste management facility.

Processing means the treatment of solid waste, household hazardous waste and recyclables after collection and before disposal. Processing includes, but is not limited to, packaging, volume reduction, storage, separation, exchange, physical, chemical or biological modification and transfer from one waste facility to another.

Public health nuisance means the creation of conditions or acts that unreasonably annoy, injure, or endanger the safety, health, comfort, or repose of any number of members of the public.

Recyclable materials means and includes aluminum cans and containers, tin cans, glass bottles and jars (made of clear, blue, green, or brown glass), plastic bottles and jugs (numbers 1, 2, 3, 4, 5, and 7), newspapers, magazines, catalogues, phone books, textiles and the materials as the board may by resolution designate from time to time.

Recycling means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use.

Recycling facility means a site used to separate, process, modify, convert or otherwise prepare solid wastes within six months so the component materials or substances may be beneficially used or reused as raw materials. The term "recycling facility" does not include an individual generator of recyclable materials, such as homeowner or business facilities which process their own waste stream using recyclable materials as feedstock.

Refuse means putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, waste combustor ash, street cleanings, and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.

Residential building means a single-family home, a duplex, a triplex, a quadriplex, an apartment building, a manufactured home, a condominium, a townhouse, a cooperative housing unit, or any other residential building as determined by the county.

Residential property means property on which a single-family home, a duplex, a triplex, a quadriplex, an apartment building, a manufactured home, a condominium, a townhouse, a cooperative housing unit, or any other residential building as determined by the county is located.

Resource recovery means the reclamation for sale or reuse of materials, substances, energy or other products contained within or derived from waste.

Runoff means the portion of precipitation that drains from an area as surface flow.

Scavenging means the uncontrolled removal of solid waste materials, including recyclables, from a permitted solid waste disposal facility.

Shoreland means land located within the following distances from the ordinary high water elevation of public waters:

(1) Land within 1,000 feet from the normal high water mark of a lake, pond, reservoir, impoundment or flowage; and

(2) Land within 300 feet of a river or stream or the landward side of a floodplain delineated by ordinance on a river or stream, whichever is greater.

Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility and other discarded waste materials and sludges, in solid semisolid, liquid, or contained gaseous form, resulting from industrial, mining, and agricultural operations and from nonresidential property, and from community activities. The term "solid waste" does not include hazardous waste, animal waste, pollutants in water resources, such as silt, dissolved solids, wastewater effluents, subject to permits under Section 402 of the Federal Water Pollution Control Act, nuclear or byproduct material.

Source separation means to divide or separate out from the main body, to make distinguishable from, to isolate, or to seclude.

Tipping fee means the fee charged to haulers and citizens for waste delivered to the facility.

Transfer station means an intermediate solid waste management facility in which solid waste collected from any source is temporarily deposited to await transportation to another solid waste management facility.

Waste facility means all property, real or personal, including negative and positive easements and water and air rights, which is or may be needed or is useful for the processing or disposal of waste, except property for the collection of the waste and property used primarily for the manufacture of scrap metal or paper. The term "waste facility" includes, but is not limited to, transfer stations, processing facilities and disposal sites.

Waste management services means activities which are intended to affect or control the generation of waste and activities which provide for or control the collection, processing and disposal of waste.

Waste tire terminology, used in article V of this chapter, shall have meanings as defined in M.S.A. § 115a.90 and Minn. Admin. Rules § 9220.0110.

Wet cell means a lead acid battery.

Wetland means a natural marsh where water stands near, at or above the soil surface during a significant portion of years, and which is eligible for classification as an inland fresh water wetland type 3, 4 or 5 under the U.S. Department of Interior classifications.

Yard waste means leaves, brush, grass clippings and garden waste produced on site by any person or firm or corporation owning or operating a residence, business, an industry or commercial establishment.

Yard waste compost site means a facility used to compost leaves, brush, grass clippings and garden waste, including all structures for processing yard waste, the compost material itself and the receptacles for discarded containers used for the delivery of yard waste.

(Ord. No. 17a, art. 2, § 2, 6-11-2007)

Sec. 32-6. - Enforcement.

(a) *Authority of department.* The solid waste office, herein referred to as "the department," including employees of the department, shall be responsible and have necessary authority to implement and carry out provisions of this chapter. The solid waste officer shall have sufficient personnel to discharge the duties of this department and implement the provisions of this chapter, including, but not limited to, the following:

(1) To review and evaluate all applications and supporting materials referred to the department for facilities and operations within the county.

(2) To inspect facilities and operations to determine compliance and investigate complaints about violations of this chapter.

(3) To recommend to the county attorney that legal proceedings be initiated against a person or group of persons to compel compliance with the provisions of this chapter or to terminate or control a facility or operation not in compliance with this chapter.

(4) To conduct studies, investigations and research relating to solid waste management, including, but not limited to, methodology, chemical and physical considerations, and engineering.

(5) To advise, consult and cooperate with the public and other governmental agencies in furtherance of the purpose of this chapter.

(6) To enforce the provisions of this chapter.

(b) *Highest standards prevail.* Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or any other applicable law, ordinance, rule and regulation, the provision that establishes the higher standard for the promotion and protection of the public health, safety and general welfare shall prevail.

(Ord. No. 17a, art. 3, § 1, 6-11-2007)

Sec. 32-7. - Violations, enforcement and penalties.

(a) Investigation of a violation of any provisions of this chapter may be performed by the department or the county sheriff department.

(b) In the event of a violation or a threat of violation of this chapter, the county may take appropriate action to enforce this chapter, including application for injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate the violations or threatened violations.

(c) No remedy set forth in this chapter is intended to be exclusive of any other remedies. No delay in the exercise of any remedy for any violation of this chapter shall later impair or waive any the right or power of the county.

(d) If a person fails to comply with the provisions of this chapter, the county may recover any and all costs, loss, damage, liability or expense incurred, including reasonable attorney's fees, incurred for the enforcement of this chapter through a civil action or based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings, brought, or any loss, damage or injury of any type whatsoever sustained, based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings. The corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the board, the costs (including legal and attorney's fees) may be certified to the county auditor as a special assessment against the real property.

(e) All property affected by this chapter shall be subject to inspection by the county in accordance with state law. After presentation of credentials, the county may collect samples for evidence or laboratory examination as deemed necessary for the enforcement of this chapter. No person shall refuse to permit the county's officers to inspect the property or interfere with the performance of their duties. The county may recover all costs, including reasonable attorney's fees, incurred for the enforcement of this chapter through a civil action. If a property owner does not complete the corrective actions within the timelines in a court order, the department may correct the violations and the department has the authority to enter the property and perform the corrective actions.

(f) The solid waste officer or department employees may issue administrative fines or impose performance conditions upon any person who violates the terms of this chapter or who fails to abate the existence of a violation.

(g) Citations.

(1) The solid waste officer or department employee may issue a criminal citation for violations of this chapter other than for violations resulting from failure to pay. The director or department employee may not physically arrest or take into custody any violator.

(2) Citations shall contain at least the following:

a. Name and address of the person charging the violation, the owner or person in charge of the premises at which the violation occurs;

b. The date and place of the violation;

c. A short description of the violation followed by the section of this chapter violated;

d. The date and place at which the person receiving the citation shall appear and a notice that if the person does not respond, a warrant may be issued for the person's arrest;

e. The name of the person issuing the citation;

f. The other information as the department may specify.

(3) The citation shall be issued to the person charged with the violation or, in the case of a business entity, to any officer or agent expressly or impliedly authorized to accept the citation.

(4) The person charged with the violation shall report to the department by the date set forth on the citation.

(5) The solid waste officer may require corrective actions or impose a fine for violations of this chapter as established by resolution of the board.

(6) The person charged may appeal the issuance of a citation to the county solid waste advisory committee. Said appeal shall be made in writing and filed with the county administrator's office within 24 hours of receipt of the citation.

(h) Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, or who shall fail to take action to abate the existence of the violation within the specified time, when ordered or notified to do so by the department, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine, imprisonment or both. Unless otherwise provided, each act of violation and every day in which the violation occurs or continues shall constitute a separate offense.

(Ord. No. 17a, art. 3, § 7, 6-11-2007)

Secs. 32-8—32-32. - Reserved.

ARTICLE II. - RESIDENTIAL RECYCLING

Sec. 32-33. - Separation and storage requirements.

Every person in the county shall:

(1) Separate recyclable materials from non-recyclable materials.

(2) Empty, rinse, clean and remove caps from all recyclable materials.

(3) Store the materials in a clean and sanitary manner.

(Ord. No. 17a, art. 4, § 1, 6-11-2007)

Sec. 32-34. - Collections.

Recyclable materials shall be made available for collection twice monthly and shall be collected by the county-designated collector.

(Ord. No. 17a, art. 4, § 2, 6-11-2007)

Sec. 32-35. - Containers.

Recyclable materials shall be placed for collection in containers designated and labeled as the county recycling containers. The size of containers shall be as follows: minimum of 20 gallons; maximum of 30 gallons. Said container shall be rubber, plastic or metal and shall be cylindrical in shape. The container must have exterior handles and lid. Maximum empty container weight shall not exceed ten pounds. Said container shall be yellow in color or shall be clearly identified with an adhesive backed yellow band provided by the department or its contractor.

(1) All persons shall maintain the recycling container in a sanitary condition and shall replace lost or damaged containers at their own expense within ten days of receiving written notice to do so from the county-designated collector of recyclable materials.

(2) No person shall place yard waste or any other non-recyclable material in a recycling container.

(Ord. No. 17a, art. 4, § 3, 6-11-2007)

Sec. 32-36. - Anti-scavenging.

Ownership of recyclable materials placed for residential collection shall be vested in the collector designated by the board.

(1) No person other than the county-designated collector shall take or collect any residential recyclable materials placed for collection.

(2) Nothing in this section shall preclude a person from disposing of recyclable materials with commercial recyclers, salvage yards or junkyards. This section shall preclude all persons other than the county-designated collector from conducting drives for the collection of residential recyclable material.

(Ord. No. 17a, art. 4, § 4, 6-11-2007)

Sec. 32-37. - Disposal.

Recyclable materials collected within the county shall not be burned or deposited in any landfill except with the express, written consent of the board, nor shall recyclables be otherwise disposed of in any way or manner which is contrary to applicable law, statute, ordinance, rule or regulation.

(Ord. No. 17a, art. 4, § 5, 6-11-2007)

Sec. 32-38. - Mandatory recycling.

An owner or occupant of a residential or multiple-family dwelling shall not deposit for collection mixed municipal solid waste which contains recyclable materials, including glass, newsprint, metal cans, aluminum, plastic or other materials identified by resolution of the board.

(Ord. No. 17a, art. 4, § 6, 6-11-2007)

Sec. 32-39. - Fees.

Pursuant to M.S.A. § 400.08(3), service charges are established by ordinance, revised when deemed advisable, and collected. Reasonable rates for solid waste management services are provided by the county or by others under contract with the county. Owners of property in the county are obligated to pay

charges for solid waste management services to their properties and may obligate the user of any property to pay a reasonable fee.

(1) Pursuant to M.S.A. § 400.08(4), collection of service charges will be billed and collected in a manner the board shall determine on or before October 15 of each year. The board may certify to the county auditor all unpaid outstanding charges and a description of the lands against which the charges arose. It shall be the duty of the county auditor, upon order of the board, to extend the assessments, with interest not to exceed the interest rate provided for in M.S.A. § 279.03(1), upon the tax rolls of the county for the taxes of the year in which the assessment is filed. For each year ending October 15, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the state. The charges, 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.

(2) Owners of real and personal (mobile home) property shall pay an annual fee as provided in the county fee schedule per dwelling unit for waste management services. Owners of real and personal (mobile home) property located outside city limits shall pay an annual fee as provided in the county fee schedule per dwelling unit for waste management services. Owners of multiple-family dwellings, consisting of 12 or more units, shall pay an annual fee as provided in the county fee schedule per dwelling unit for waste management services. Waste management services shall be provided by the county or persons under contract with the county.

(Ord. No. 17a, art. 4, § 7, 6-11-2007)

Secs. 32-40—32-66. - Reserved.

ARTICLE III. - COMMERCIAL RECYCLING

Sec. 32-67. - Storage of unlicensed/inoperable equipment prohibited—Residential sites.

No person shall place or store in open areas of any residential site unlicensed/inoperable vehicles, machinery, appliances, fixtures or equipment so damaged, deteriorated or obsolete that there is no substantial potential further use consistent with usual function or reasonable reuse; or mixed municipal solid waste, including, but not limited to, recyclable materials, broken furniture, tires or other debris.

(Ord. No. 17a, art. 5, § 1, 6-11-2007)

Sec. 32-68. - Same—Commercial sites.

No person shall place or store upon the open areas of any commercial site unlicensed/inoperable motor vehicles, machinery, appliances, fixtures or equipment so damaged, deteriorated or obsolete that there is no substantial potential further use consistent with usual function or reasonable reuse. Nothing in this section is designed to restrict activities of automobile, scrap iron, and metal recycling or salvage businesses that are operating in accordance with state, county and municipal or township laws, rules and regulations.

(Ord. No. 17a, art. 5, § 2, 6-11-2007)

Sec. 32-69. - Same—Agricultural sites.

No person shall place or store upon the open areas of any agricultural site unlicensed/inoperable motor vehicles, machinery, appliances, fixtures or equipment so damaged, deteriorated or obsolete that there is

no substantial potential further use consistent with usual function or reasonable reuse, unless the activity is otherwise permitted by the county.

(Ord. No. 17a, art. 5, § 3, 6-11-2007)

Sec. 32-70. - Solid waste and recyclable material removed every 48 hours.

Mixed municipal solid waste and recyclable materials shall be removed from hauler collection or transportation vehicles at least every 48 hours, except when allowed by the solid waste officer.

(Ord. No. 17a, art. 5, § 4, 6-11-2007)

Sec. 32-71. - Permit required to transport solid waste within the county.

Any vehicle transporting mixed municipal solid waste for hire within the county must first obtain a collection and transportation or recycling permit from the department.

(1) A person who collects or transports MSW must do so in a safe and sanitary manner and must secure all loads so as to prevent escape of any waste material. The driver of a vehicle transporting MSW is responsible for leaking or spilling loads.

(2) Title to non-hazardous mixed municipal solid waste shall remain with the generator until released to a licensed hauler or by self-hauling to a licensed facility.

(Ord. No. 17a, art. 5, § 5, 6-11-2007)

Secs. 32-72—32-100. - Reserved.

ARTICLE IV. - YARD WASTE COMPOSTING

Sec. 32-101. - Purpose.

The board has determined that the purpose of this article is to:

(1) Encourage the proper use of yard waste.

(2) Encourage the use of yard waste in accordance with the following priorities:

   a. Let it lie on the ground.

   b. Compost on site.

   c. Compost at a public site.

(3) Abate the need for landfill disposal of yard waste.

(4) Provide a useful and beneficial compost product.

(5) Support communities in the county who provide and maintain public sites for composting yard waste.

(6) Implement the intent of the county solid waste management plan.

(Ord. No. 17a, art. 8, § 1, 6-11-2007)

Sec. 32-102. - Yard waste ban.

Yard waste shall not be mixed with municipal solid waste in solid waste containers, the contents of which are to be disposed of at a land disposal site.

(Ord. No. 17a, art. 8, § 2, 6-11-2007)

Sec. 32-103. - Responsibilities.

(a) The department shall undertake a vigorous and continuing program of public information to encourage use and treatment of yard waste in a manner consistent with this article and the solid waste management plan.

(b) The compost product generated at county-operated compost sites will be available to all persons. The county shall make appropriate public announcements to advertise compost availability.

(c) The department shall advise, consult and cooperate with public and other governmental agencies in furtherance of the purpose of this article.

(Ord. No. 17a, art. 8, § 3, 6-11-2007)

Sec. 32-104. - Responsibility of residents, businesses and industry section.

(a) The owner or lessee of any residence, business or industry may transport yard waste or contract with a licensed hauler to collect and transport yard waste.

(b) All yard waste generated and intended for disposal shall be source-separated and identified as yard waste, if not obvious to the collector.

(c) Absolutely no mixing of yard waste with municipal or other solid waste is permitted under this article and violators are subject to penalties of this article.

(d) A yard waste compost site not exceeding 200 cubic feet in size may be allowed on a land parcel without a permit or license under this article if the site is properly managed to prevent nuisance or health and safety problems.

(Ord. No. 17a, art. 8, § 4, 6-11-2007)

Sec. 32-105. - Responsibility of haulers.

(a) All yard waste collected and removed from every residence, business or industry shall be transported to an appropriate compost site.

(b) Solid waste haulers operating in the county shall provide yard waste collection services at scheduled intervals in accordance to seasonal yard waste generation.

(Ord. No. 17a, art. 8, § 5, 6-11-2007)

Secs. 32-106—32-123. - Reserved.

ARTICLE V. - WASTE TIRE MANAGEMENT

Sec. 32-124. - Purpose.

The board has determined that the purpose of this article is to encourage the proper disposal of waste tires.

(Ord. No. 17a, art. 10, § 1, 6-11-2007)

Sec. 32-125. - Disposal.

Any person who possesses waste tires in the county shall:

(1) Deliver the waste tires to a person who possesses a valid waste tire transporter identification number as required by Minn. Admin. Rules § 9220.0530;

(2) Deliver waste tires directly to the waste tire collection transfer facility that has contracted with the county for tire collection and disposal; or

(3) Obtain a permit from the state pollution control agency to store or process waste tires as required by Minn. Admin. Rules §§ 9220.0230 and 9220.0240. Such storage or processing shall be in accordance with all conditions of the state permit.

(Ord. No. 17a, art. 10, § 2, 6-11-2007)

Sec. 32-126. - Exemptions.

(a) A person may store or process waste tires without a state permit if:

(1) Such storage or processing is pursuant to an exemption under Minn. Admin. Rules § 9220.0230(2);

(2) Fewer than 50 waste tires are stored at any one time;

(3) Fewer than 50 waste tires are processed during any 30 days; or

(4) No more than ten waste tires are stored on a non-farm residential lot.

(b) All of these tires must be stored in an enclosed structure.

(Ord. No. 17a, art. 10, § 3, 6-11-2007)

Sec. 32-127. - Transportation.

(a) Any person who transports waste tires for hire in the county shall first obtain a waste tire transportation identification number from the state pollution control agency as required by Minn. Admin. Rules § 9220.0530.

(b) A person may transport waste tires without a waste tire transporter identification number if the transportation is pursuant to an exemption under Minn. Admin. Rules § 9220.0530(2).

(c) A person who transports waste tires for hire shall:

(1) Deliver the waste tires to a waste tire processing, storage, or transfer facility that has a state permit or is exempt from the requirement to obtain a state permit; and

(2) Transport the waste tires in accordance with all conditions of the applicable waste tire transporter identification number.

(Ord. No. 17a, art. 10, § 4, 6-11-2007)

Sec. 32-128. - Penalties.

Any person who disposes of waste tires on public or private land, shoreland, roadways or waters, or by burning in the county, is in violation of this article.

(Ord. No. 17a, art. 10, § 5, 6-11-2007)

Secs. 32-129—32-154. - Reserved.

ARTICLE VI. - HOUSEHOLD HAZARDOUS WASTE

Sec. 32-155. - Purpose.

The county board has determined that the purpose of this article is to encourage the proper disposal of household hazardous wastes.

(Ord. No. 17a, art. 11, § 1, 6-11-2007)

Sec. 32-156. - Responsibilities of haulers.

(a) *Permits.* Haulers shall obtain a permit from the department before constructing, establishing, maintaining or operating a household hazardous waste business. Government facilities shall be exempt from this requirement but still must meet any state or federal permit requirements. In addition, all state pollution control agency requirements for the operation or construction of any household hazardous waste business must be met before commencing operations.

(b) *Storage.* Haulers shall store hazardous wastes in durable, leakproof containers which are labeled with a description of the chemical composition or the substances stored therein. Such wastes shall be stored in a safe location and in compliance with regulations set forth by the county, state or federal government.

(c) *Signs.* A mobile or permanent collection, receiving or processing operation for household hazardous waste shall have a sign posted in the area indicating its designated use and precautions. The sign shall be placed in a highly visible location so as to be seen in high traffic areas. All lettering on the sign shall be at least two inches in height.

(d) *Facilities.* Disposal facilities shall be built ten feet above the groundwater level and at least ten feet above bedrock formations. The toxic and hazardous waste disposal areas to be used shall be sealed in a manner acceptable to the solid waste officer or any other person so designated to administer the same, prior to disposal.

(Ord. No. 17a, art. 11, § 2, 6-11-2007)

Sec. 32-157. - Reports.

Household hazardous waste haulers and receivers shall submit annual household hazardous waste reports as required by the department, on a form provided by the department.

(Ord. No. 17a, art. 11, § 3, 6-11-2007)

Sec. 32-158. - Department responsibilities.

(a) The department shall undertake a vigorous and continuing program of public information to encourage proper disposal of hazardous household materials.

(b) The department shall advise, consult and cooperate with public and other government agencies in furtherance of the purpose of this article.

(c) Where necessary to prevent land pollution, water pollution, a public nuisance or threat to public health, welfare or safety, the solid waste officer or other person so designated under this article may impose

conditions for the disposal of toxic and hazardous wastes within a disposal facility or mobile collection unit in addition to those specifically established in this article.

(Ord. No. 17a, art. 11, § 4, 6-11-2007)

Sec. 32-159. - Responsibilities of household hazardous waste generators.

(a) The owner or lessee of any residence may transport self-generated hazardous materials to a collection site, provided measures have been taken to ensure the materials transported will not spill, leak, or otherwise harm the environment or the people that may come into contact with these materials.

(b) Absolutely no mixing of household hazardous materials with any municipal or other solid waste or recycling materials is permitted.

(c) Burial or surface disposal of household hazardous wastes is prohibited.

(d) Unpermitted collection sites and unpermitted household hazardous waste business are prohibited.

(e) Explosives will not be accepted at any household hazardous waste collection location.

(Ord. No. 17a, art. 11, § 5, 6-11-2007)

Sec. 32-160. - Other special waste.

Additional hazardous waste identified by state law or MPCA rules may be subject to further regulation by the board.

(Ord. No. 17a, art. 11, § 6, 6-11-2007)

Secs. 32-161—32-188. - Reserved.

ARTICLE VII. - SPECIAL WASTES

Sec. 32-189. - Wet cell batteries.

(a) Batteries shall be stored to ensure that leakage is contained.

(b) Batteries shall be disposed at an approved processing facility that recycles all battery components.

(Ord. No. 17a, art. 12, § 1, 6-11-2007)

Sec. 32-190. - Used motor oil.

(a) Burial or surface disposal of used motor oil and filters is prohibited.

(b) Used motor oil shall be disposed of at a resource recovery disposal facility approved by the MPCA.

(c) Compliance with state law for signage requirements shall be met.

(Ord. No. 17a, art. 12, § 2, 6-11-2007)

Sec. 32-191. - Hazardous waste.

(a) Burial or surface disposal of all hazardous waste is prohibited.

(b) All hazardous waste shall be disposed of at a permitted hazardous waste disposal site.

(Ord. No. 17a, art. 12, § 3, 6-11-2007)

Sec. 32-192. - Electronic waste (e-waste).

Cathode ray tubes commonly referred to as e-waste cannot be disposed of with the mixed municipal solid waste. All CRTs must be taken to a collection organized and permitted by the county or to a facility permitted to accept e-waste.

(Ord. No. 17a, art. 12, § 4, 6-11-2007)

Sec. 32-193. - Other special waste.

Additional special waste identified by state law or MPCA rules may be subject to further regulation by the board.

(Ord. No. 17a, art. 12, § 5, 6-11-2007)

Secs. 32-194—32-224. - Reserved.

ARTICLE VIII. - COLLECTION AND TRANSPORTATION OF SOLID WASTE

Sec. 32-225. - Purpose.

The board has determined that this regulation be adopted to ensure proper waste collection, transportation, and disposal of mixed municipal solid waste and recyclable materials to an agency-approved waste facility; to provide volume or weight based fee structure for collection services. In addition to the provisions of this article, the collection and transportation of the mixed municipal solid waste and recyclable materials shall meet the requirements of Minn. Admin. Rules § 7035.0800.

(Ord. No. 17a, art. 13, § 1, 6-11-2007)

Sec. 32-226. - Jurisdiction.

This article shall apply to all persons seeking to operate a vehicle for transportation and collection of mixed municipal solid waste and recyclable materials in the county. This article does not apply to those who transport materials that have been collected for recycling and are being transported from a permitted recycling facility to a processing facility or market.

(Ord. No. 17a, art. 13, § 2, 6-11-2007)

Sec. 32-227. - Required permit.

A vehicle transporting mixed municipal solid waste or recyclables from a single household or a vehicle hauling mixed municipal solid waste and recyclable materials from outside the county to another place outside of the county is exempt from permit requirements. Vehicles that are transporting only demolition debris are also excluded from the requirements of this section. All other vehicles transporting mixed municipal solid waste and recyclable materials within the county shall possess the following permits:

(1) *Collection/transportation permit.* Any person, firm or corporation that collects mixed municipal solid waste or residential recyclable materials within the county and transports mixed municipal

solid waste or residential recyclable materials via highways and roads in the county must annually obtain a collection/transportation permit.

(2) *Industrial recycling collection/transportation permit.* Any person, firm or corporation that collects industrial recyclable materials within the county and transports industrial recyclable materials via highways and roads in the county must annually obtain an industrial recycling collection/transportation permit.

(3) *Permit application.* Application for collection/transportation permits or industrial recycling collection/transportation permits shall be made upon forms provided by the department.

(4) *Contracts.* Municipalities or townships within the county that contract with mixed municipal solid waste collectors must contract only with a refuse collector who is permitted by the county or that governing municipality. Contracts must also be consistent with the provisions in this article.

(5) *Permits.* Haulers and industrial recycling haulers permitted by municipalities in the county may submit copies of those municipal permits to the department. Haulers having municipal licenses shall complete the county permit application for permit from the department. Haulers having municipal permits will be exempted from the county permitting fees.

(Ord. No. 17a, art. 13, § 3, 6-11-2007)

Sec. 32-228. - Collection/transportation permit requirements.

(a) *Submittal.* Persons, firms or corporations intending to collect and transport mixed municipal solid waste or residential recyclables in the county shall submit the following information:

(1) The name and address of the applicant.

(2) A description of each vehicle to be used for collection and transportation of mixed municipal solid waste or residential recyclable materials, including the vehicle identification, make, model, year, the capacity of the body or the capacity and number of rolloffs.

(3) The date of the last department of transportation safety inspection of the vehicles.

(4) The location and address describing the place where the applicant is storing equipment/vehicles.

(5) A current copy of certificate of insurance, indicating proper insurance coverage for the period of the permit, including the name of the insurance carrier, its agent, policy number and effective dates.

(6) The applicant must present proof of compliance with Minn. Admin. Rules § 7045.0351, applicable to transport of hazardous waste, if the hauler collects and transports those wastes for industry.

(7) The applicant shall submit a general description of the service area that the mixed municipal solid waste collection or residential recycling collection vehicles travel during collection and transportation of the mixed municipal solid waste or residential recyclable materials.

(8) A copy of the permit or contract issued by the governing body of any municipality to be served.

(9) A statement by the applicant that shows that vehicle operators possess proper drivers' licensure.

(10) The applicant shall submit an annual report to the department, on or before January 31 of each year, for the previous calendar year, identifying the weight or volume of mixed municipal solid waste or residential recyclables and the destination of the mixed municipal solid waste or residential recyclables collected in the county, and other information as the department may require.

(b) *Inspection.* The department may inspect and approve any mixed municipal solid waste or residential recyclable material collection and transportation vehicles prior to giving approval.

(Ord. No. 17a, art. 13, § 4, 6-11-2007)

Sec. 32-229. - Industrial recycling collection and transportation permit requirements

(a) *Submittal.* Persons, firms or corporations intending to collect and transport industrial recyclable materials in the county shall submit the following information:

(1) The name and address of the applicant.

(2) A description of each vehicle to be used for collection and transportation of industrial recyclables, including the vehicle identification, make, model, year, the capacity of the body or the capacity and number of rolloffs.

(3) The date of the last department of transportation safety inspection of the vehicles.

(4) The location and address describing the place where the applicant is storing equipment/vehicles.

(5) Current copy of certificate of insurance, indicating proper insurance coverage for the period of the permit, including the name of the insurance carrier, its agent, policy number and effective dates.

(6) The applicant shall submit a general description of the service area where industrial recyclable material collection occurs and where transportation vehicles travel during the collection of the industrial recyclables.

(7) A statement by the applicant that shows that vehicle operators possess proper drivers' licensure.

(8) The applicant shall submit an annual report to the department, on or before January 31 of each year, for the previous calendar year, identifying the weight or volume of industrial recyclables and the destination of the recyclables collected in the county, and other information as the department may require.

(b) *Inspection.* The department may inspect and approve any industrial recyclable material transportation vehicle prior to giving approval.

(Ord. No. 17a, art. 13, § 5, 6-11-2007)

Sec. 32-230. - Applicant review.

After receiving a complete application, the department shall submit the application to the board at the earliest convenient time and the board shall have 30 days to either grant or deny the permit. If an applicant is not granted a permit, he shall be notified in writing of the reasons therefor. A denial shall be without prejudice to the applicant's right to file a further application. Submission of false information may constitute ground for denying a permit or permit renewal, or suspension by revocation of an issued permit.

(Ord. No. 17a, art. 13, § 6, 6-11-2007)

Sec. 32-231. - Operation and maintenance requirements.

(a) *Equipment requirements.* All mixed municipal solid waste and recyclable material collection and transportation vehicles shall be easily cleanable, leakproof and be covered metal, wooden, canvas or fishnet type material made for this purpose.

(b) *Maintenance.* The permittee shall maintain all mixed municipal solid waste and recyclable material collection and transportation vehicles in a safe and sanitary manner and provide brooms and shovels on each vehicle for the purpose of cleaning spilled material. All safety equipment, including, but not limited to, horns, lights and reflectors, shall be operable.

(c) *Protection of private property.* The permittee shall take reasonable care to protect the property of customers being served. The permittee shall be responsible for any damage or spillage of mixed municipal solid waste as a result of his action.

(d) *Smoking, smoldering, or burning waste.* The permittee shall not collect and transport waste materials that are smoking, smoldering, or burning.

(e) *Dumping in an emergency.* The permittee shall be responsible for the cleanup of any waste that must be dumped in an emergency. The operator of the vehicle shall immediately notify the department and the appropriate law enforcement agency and emergency service of the dumping and clean the area with a time limit set by the department.

(f) *Storage of solid waste.* Mixed municipal solid waste or recyclable materials shall not be allowed to remain or be stored in any collection or transportation vehicle in excess of 48 hours, except in the event of an emergency.

(Ord. No. 17a, art. 13, § 7, 6-11-2007)

Sec. 32-232. - Volume- or weight-based fees.

(a) In accordance with M.S.A. § 115a.93, all fees for the collection of mixed municipal solid waste assessed by collectors operating within the county shall be based on either a volume- or weight-based system. For volume- or weight-based fees, the fee shall increase with the volume or weight of the waste collected. These fees shall be implemented no later than January 1, 1993, for municipalities and unincorporated areas of the county.

(b) A pricing system based on volume instead of weight shall have a base unit size of 30 to 33 gallons for mixed municipal solid waste collected from households; mixed municipal solid waste collected from industrial collection may have a larger base unit size. The permittee shall establish a multiple unit pricing system that ensures the amounts of waste generated in excess of the base unit amount are priced higher than the base unit price. The permittee shall submit fee schedules to the department for review to ensure compliance with this article.

(c) A municipality or township that collects charges for mixed municipal solid waste collection directly from waste generators shall implement charges consistent with subsection (b) of this section.

(d) For the purpose of this section, farms are to be considered households for purposes of fee calculation.

(Ord. No. 17a, art. 13, § 8, 6-11-2007)

Sec. 32-233. - Fee establishment.

The board shall establish by resolution the permit fee structure for licensing of the transportation and collection of mixed municipal solid waste, residential recyclable materials and industrial recycling collection in the county.

(Ord. No. 17a, art. 13, § 9, 6-11-2007)

Secs. 32-234—32-259. - Reserved.

ARTICLE IX. - DISPOSAL SITE PERMITS

Sec. 32-260. - Permits.

(a) Any person disposing of solid wastes within the county shall deposit the waste at a permitted site or facility and with the approval of the owner/operator of the site or facility or in conformance with the performance standards set forth hereafter.

(b) Any person allowing real or personal property under their control to be used for solid waste disposal purposes shall obtain a permit issued by the department or board.

(Ord. No. 17a, art. 3, § 2, 6-11-2007)

Sec. 32-261. - Permit application.

(a) An applicant for a permit shall complete and submit a departmental application. The application shall not be considered complete until the department receives all applicable fees, materials required by this section, materials required by subsequent sections applying to the specific waste management activity for which a permit is sought and any other information requested by the department.

(b) The applicant shall submit written proof that all municipal or township governing bodies located within two miles of the affected property have been notified. Property owners of record within one-quarter mile of the affected property or the ten properties nearest to the affected property, whichever is the greatest number of property owners, shall be notified in writing of the proposed facility.

(c) All submittals to the state during the state permitting or licensing process for solid waste facilities and operations shall also be submitted to the department.

(d) Applicants shall demonstrate compliance with all other county ordinances, zoning requirements and state and federal regulations.

(e) Applicants for a permit shall not commence any construction activities or operation until the permit has been issued.

(f) The applicant shall submit additional information as requested by the department.

(g) Unless otherwise provided by the board, issuance of any permit pursuant to the provisions of this article shall be contingent upon the applicant furnishing to the county a performance bond, in an amount to be set by the board, and naming the county as obligee with sufficient sureties duly licensed and authorized to transact corporate surety business in the state as sureties. The condition of the bond or other approved instruments shall be that if the principal fails to obey any of the requirements or do any of the acts required by this article in the operation of the waste facility or activity, or if, for any reason, ceases to operate or abandons the waste facility or activity, and the county is required to expend any monies or expend any labor or material to restore the facility to the condition and requirements as provided by this article, the obligor and the sureties on its bond shall reimburse the county for any or all expense incurred to remedy the failure of the principal to comply within the terms of this article, and the obligor and its sureties will indemnify and save the county harmless from all losses, costs and charges that may accrue to the county because of any default of the obligor under the terms of their license or permit to cancellation by the surety at any time only upon giving 120 days' prior written notice of cancellation to the county.

(h) The applicant shall furnish to the county certificates of insurance issued by insurers duly licensed by the state covering public liability insurance, including general liability, automobile liability, completed operations liability, and bodily injury liability, in amounts to be set by the board. In addition, the applicant shall provide evidence of worker's compensation coverage in the required statutory amounts.

(i) The applicant shall also submit the proposed plan of operation, closure, financial assurance and post closure activity.

(j) After receiving a completed application, the department shall have 60 days to:

  (1) Approve or deny the application;

  (2) Request additional information; or

  (3) If appropriate, forward the application to the board for further action.

(k) Submission of false information by the applicant shall constitute grounds for denying, suspending or revoking a permit or permit renewal.

(Ord. No. 17a, art. 3, § 3, 6-11-2007)

Sec. 32-262. - Permit issuance.

(a) A permit issued pursuant to this article shall be for a maximum period of one year. The department may thereafter issue annual renewals.

(b) Operational requirements must be met before a permit may be annually renewed.

(c) Permits shall not be transferable.

(d) Unless otherwise provided by the department, issuance or renewal of any permit shall be contingent upon the owner of the site or facility or the operator, or both, providing financial assurance for the closure, post-closure maintenance and monitoring of the site or facility. Use of this financial assurance shall be limited to the site or facility for which it was provided. Documentation submitted with the application for department approval shall include funding procedures, a description of the funding method, the value of the funding, and an inflation adjusted cost estimate which ensures that the closure and post-closure activities at the site or facility take place. The amount of the financial assurance shall be equal to or exceed the total estimated post-closure costs specified in the approved post-closure plan.

(Ord. No. 17a, art. 4, § 1, 6-11-2007)

Sec. 32-263. - Closure of an unpermitted site.

No person shall operate a dump or any unpermitted solid waste disposal site. The owner of any site currently operating at the time of the enactment of this article shall cease operation and close the site in accordance with the following MPCA regulations:

(1) Access to the site shall be closed and signs erected indicating that dumping is not allowed.

(2) No burning shall be allowed.

(3) Chemical containers shall be removed.

(4) Rodents shall be eradicated.

(5) At the discretion of the board, the owner shall conduct a water-monitoring program pursuant to procedures for groundwater monitoring, state pollution control agency guidelines and take measures to protect the groundwater and surface water. Plans to protect the groundwater and surface water shall be approved by the department and MPCA prior to implementation.

(6) Divert surface water drainage around and away from the disposal area.

(7) Compact the refuse and cover it with at least two feet of compact cover material.

(8) Seed the cover material so that adequate turf is present.

(9) Establish and maintain a grade sufficient to promote water runoff without excessive erosion.

(10) The owner of property in which the site is located shall place on record an instrument with the county recorder in a form provided by the department placing the public notice of the existence and location of the illegal site and of the obligations placed upon the parties holding interest in the property and the restrictions which may effect the use of the property.

(Ord. No. 17a, art. 3, § 5, 6-11-2007)

Sec. 32-264. - Fees and service charges.

All environmental and operating costs resulting from the implementation of this article shall be funded through the fees and service charges imposed herein.

(1) Fees for licenses and permits shall be set by resolution of the board.

(2) Fees for repeated visits or investigations of property to determine compliance with the article may be established and set by resolution of the board. The fees established shall include the cost and amount of the service, including data accumulation, planning, attorney's fees, depreciation and administration.

(3) The board shall establish or amend the waste management (tipping) fee by resolution. The fee shall be determined by:

a. The cost of acquisition, operation and maintenance of county solid waste facilities;

b. The cost of the county waste management services, including those provided by the facilities;

c. All other costs incurred in the operation of the county waste management program.

(4) Any solid waste facilities or vehicles owned and operated by the county or any incorporated areas shall be exempt from payment of fees but shall be subject to operational requirements of this article.

(Ord. No. 17a, art. 3, § 6, 6-11-2007)

Secs. 32-265—32-291. - Reserved.

ARTICLE X. - APPLIANCE STOCKPILING/RECYCLING

Sec. 32-292. - Permit required.

(a) A permit shall first be obtained from the department before constructing, establishing, maintaining or operating an appliance storage facility of three or more appliances.

(b) In addition to the requirements set forth in article IX of this chapter, a permit application shall contain the following:

(1) Detailed disposal plan which does not include any on-site burial or burning, and provides for the recycling or reuse of the scrap metal.

(2) Final disposal processing plans at an agency-approved processing facility.

(3) Applicable state agency and U.S. Environmental Protection Agency approved permits.

(4) Any other information required by the department.

(Ord. No. 17a, art. 9, § 1, 6-11-2007)

Sec. 32-293. - Location requirements.

(a) Appliances or their components shall not be located closer than 75 feet from the ordinary high water mark of a wetland.

(b) Appliances or their components shall not be stored within 300 feet of any streams, ponds and lakes, including shoreland and floodplain areas.

(Ord. No. 17a, art. 9, § 2, 6-11-2007)

Sec. 32-294. - Operation requirements.

(a) Refrigerants shall be properly removed upon arrival. Chlorofluorocarbon/Freon gases or hazardous solutions or vapors must be recycled, destroyed or disposed of according to state law.

(b) Motors shall be properly removed upon arrival. Switches and temperature gauges containing mercury shall be removed and managed as hazardous waste.

(c) Capacitors shall be properly removed upon arrival and polychlorinated biphenyls shall be removed and managed as hazardous waste.

(d) A bond shall be required for storage facilities to guarantee any future environmental remediation costs.

(e) Appliance storage shall not exceed one year at an appliance storage site.

(Ord. No. 17a, art. 9, § 3, 6-11-2007)

Sec. 32-295. - Burial prohibited.

(a) Burial or surface disposal of appliances is prohibited.

(b) Unpermitted appliance storage sites shall be immediately closed.

(Ord. No. 17a, art. 9, § 4, 6-11-2007)

Secs. 32-296—32-323. - Reserved.

ARTICLE XI. - RESIDENTIAL DISPOSAL OF SOLID WASTE

Sec. 32-324. - Garbage.

(a) Owners of residential dwellings may dispose of garbage from their household on the property where the household is located if they have provided written notification to the department and the household is outside of established city limits. Burial sites must be:

    (1) Maintained in a nuisance-free, aesthetic and environmentally protective manner which includes a minimum setback of at least 200 feet from all water wells, on-site sewage treatment systems, sinkholes, wetlands and streams; and

    (2) Located outside of a ravine, gully, dry-run, shoreland area, open pit mine, waterway or floodplain.

(b) It shall be illegal to use another person's solid waste storage container, inspect its contents or remove its contents unless provided prior authorization by the owner or lawful custodian of the container or for inspection by the department.

(Ord. No. 17a, art. 14, § 1, 6-11-2007)

Sec. 32-325. - Burning.

Owners of residential dwellings are prohibited from burning garbage except that a non-farm dwelling unit or person operating land defined as a farm may burn garbage generated from that person's household or as part of that person's farming operation without obtaining a permit if:

    (1) A burn barrel is used and located at least 300 feet from any residential dwelling not located on the site; or

    (2) The burning site is monitored from the commencement of the burning until the fire is completely extinguished, the prevailing wind is away from nearby residences and occupied buildings, and the burning is conducted as far away from a road as possible and is controlled so that a traffic hazard is not created.

(Ord. No. 17a, art. 14, § 2, 6-11-2007)

Sec. 32-326. - Storage.

(a) In farmyards, all non-putrescible materials, except for farm implements which are substantially intact, must be consolidated to an area not to exceed one-half acre or five percent of the parcel size, whichever is less.

(b) Farm implements which are commingled with non-putrescible materials shall be limited to an area indicated in subsection (a) of this section.

(c) In all other zoning districts, and including non-farm dwelling units, all non-putrescible materials shall be stored within the confines of an enclosed building. No exterior storage shall be permitted.

(d) Materials shall be stored in a nuisance-free and environmentally sound manner.

(Ord. No. 17a, art. 14, § 3, 6-11-2007)

Sec. 32-327. - Use of land.

The use of land for the dumping, disposal, or storage of scrap iron, metal, glass, unused appliances or machinery, junk, garbage, rubbish, electronics, demolition debris or any other refuse, or of ashes, slag, or other industrial wastes or byproducts is not permitted in any residential zoning district, or on any homesite in any zoning district.

(Ord. No. 17a, art. 14, § 4, 6-11-2007)

Sec. 32-328. - Agricultural district.

In an agricultural district, it shall not be permitted to dump, deposit, or store any of the above-mentioned materials unless the following conditions are complied with:

(1) The material being disposed, dumped, or stored must be material that has been discarded and or generated on the premises by an occupant of the household of which is the owner, occupant, or lessee of the property.

(2) The site shall be kept and maintained in a nuisance-free, pollution-free, and aesthetic manner consistent with the intent of all applicable regulations.

(Ord. No. 17a, art. 14, § 5, 6-11-2007)

Secs. 32-329—32-359. - Reserved.

ARTICLE XII. - DEMOLITION WASTES

Sec. 32-360. - Permit.

(a) A permit must first be obtained from the department before the disposal of demolition waste generated by construction or demolition of structures or the use of select demolition waste as a fill for a specific land improvement project or the storage of demolition waste intended for recycling or beneficial reuse.

(b) In addition to the requirements set forth in article IX of this chapter, a permit application shall contain the following:

(1) Detailed plans specifying proposed materials, site capacity and, if appropriate, soil evaluation and hydrogeologic studies.

(2) Description of procedures for dust, noise and traffic control.

(3) Signed agreements or indicia of ownership of the proposed site.

(4) For commercial off-site use, an approved conditional use permit.

(5) Estimated duration of site use.

(6) MPCA-approved permit.

(7) Any other information required by the department.

(c) Demolition waste facilities shall not be located on a site:

(1) With karst features, including sinkholes, disappearing streams and caves.

(2) Within wetland areas.

(3) Within a floodplain.

(4) Within a shoreland.

(5) With a water table within five feet of the lowest elevation.

(Ord. No. 17a, art. 15, § 1, 6-11-2007)

Sec. 32-361. - Demolition waste facility design.

Demolition waste facilities shall be designed consistent with the following:

(1) Site preparation must allow for orderly development of the site. Initial site preparations must include clearing and grubbing, top soil stripping and stockpiling, fill excavation, if appropriate, drainage control structures and other design features necessary to construct and operate the facility.

(2) The site must be developed in phases to achieve final fill elevations as rapidly as possible. The design of each phase must take into account weather conditions and site drainage and waste flow pattern into the site.

(3) Surface water drainage must be diverted around and away from the fill areas.

(4) Slopes and drainageways must be designed to prevent erosion. Slopes longer than 200 feet must be interrupted with drainageways.

(5) Final slopes for the fill area must be a minimum of two percent and a maximum of 20 percent.

(Ord. No. 17a, art. 15, § 2, 6-11-2007)

Sec. 32-362. - Operation.

Demolition debris facilities shall be operated consistent with the following:

(1) A certified operator must be present at all times the facility is open to accept waste.

(2) The waste must be spread and compacted to the extent possible.

(3) The site must be covered at least monthly.

(4) Suitable cover material must be maintained at the site.

(5) Each phase must be staked for proper grading and filling.

(6) A minimum separation distance of 50 feet must be maintained between the fill boundaries and the site property line.

(7) Waste at the site intended for reuse must be stored in accordance with Minn. Admin. Rules § 7035.2855.

(Ord. No. 17a, art. 15, § 3, 6-11-2007)

Sec. 32-363. - Closure.

The demolition waste facility must meet the following closure requirements:

(1) The owner or operator must close each phase as it reaches final waste elevation.

(2) Final cover must consist of at least two feet of soil capable of sustaining vegetative growth and minimizing erosion.

(3) The site shall be inspected one year after closure to determine if settlement and erosion problems exist.

(4) All problems at the site must be corrected within 30 days of the inspection.

(5) A notation must be placed on the property deed indicating the site use and location of the waste.

(Ord. No. 17a, art. 15, § 4, 6-11-2007)

Secs. 32-364—32-384. - Reserved.

ARTICLE XIII. - RECYCLING FACILITIES

Sec. 32-385. - Permit required.

A permit shall first be obtained from the department before constructing, operating or installing a recycling facility. In addition to the requirements set forth in article IX of this chapter, a permit application shall contain the following:

(1) A current map or an aerial photograph of the area showing a land use and zoning within one-quarter mile of the recycling facility. A location inset map should be included.

(2) A plot plan, including the legal description of the site of the facility; a description of the immediate adjacent area showing dimensions, present and planned pertinent features, including, but not limited to, roads, buildings, fencing and other applicable details; and the general topography. The scale of the plot plan shall not be greater than 200 feet per inch.

(3) A report shall accompany the plans indicating:

a. Area of the site in acres;

b. Owner of the site and proposed permittee;

c. Individuals responsible for actual operation and maintenance of the recycling facility and attending operating procedures;

d. Sanitary landfill or other waste facility where any residue will be transferred, the owner, hours of operation and the state agency permit number;

e. Type and amount of equipment to be provided for the operation of the recycling facility;

f. Population and geographical areas to be served by the proposed facility;

g. Anticipated tonnage of solid waste delivered to the facility from each community within the area;

h. An estimate of recyclable materials to be delivered to the facility;

i. Proposed storage capacity on site;

j. Proposed marketing plan for materials;

k. Proposed access routes within a one-mile radius of the proposed facility;

l. As recommended by the department, suitable soils, geologic and groundwater information will be submitted;

m. Local government approval of the facility site.

(4) MPCA permit.

(5) Any other information required by the department.

(Ord. No. 17a, art. 16, § 1, 6-11-2007)

Sec. 32-386. - Operation requirements.

The following shall be established and maintained at the recycling facility site:

(1) A sign, subject to the approval of the department, shall be posted on the premises indicating the facility name, schedule of the days and hours it is open to the public, and prices for use.

(2) Records approved by the department shall be maintained indicating the type and quantity of solid waste passing through the recycling facility.

(3) The recycling facility shall be so situated, equipped, operated and maintained so as to limit interference with other activities in the area.

(4) The premises, entrances and exits shall be maintained in a clean, neat and orderly manner at all times.

(5) All incoming and outgoing traffic shall be controlled by the permittee in a manner as to provide orderly and safe ingress and egress.

(6) All unloading of solid waste from contributing vehicles shall be conducted in a manner as to eliminate odor and litter outside of the facility.

(7) The other regulations as may be established by the board in order to protect the health, safety and welfare of the public.

(8) All processing shall occur in an enclosed area.

(Ord. No. 17a, art. 16, § 2, 6-11-2007)

Chapter 34 - SUBDIVISIONS

ARTICLE I. - IN GENERAL

Sec. 34-1. - Purpose.

Pursuant to the authority contained in M.S.A. § 394.21, this chapter is adopted to safeguard the best interests of the county; to assist the subdivider in harmonizing his interests with those of the county at large, as well as with those of the local municipalities located within the county; to prevent piecemeal planning subdivisions, undesirable, disconnected patchwork of patterns, and poor circulation of traffic; to correlate land subdivisions with county land use plans and policies; to secure the rights of the public, with respect to public lands and waters; to improve land records by establishing standards for surveys and plats; to discourage inferior development which might adversely affect property values; and to establish subdivision development at standards compatible with affected municipalities within the county.

(Ord. of 4-20-1982(2), art. 1, § 2)

State Law reference— Authority to carry on county planning and zoning, M.S.A. § 394.21.

Sec. 34-2. - Applicability.

The regulations of this chapter shall apply to all minor and major subdivisions of land located within the unincorporated area of the county.

(Ord. of 4-20-1982(2), art. 1, § 3)

Sec. 34-3. - Definitions.

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

Alley means a public right-of-way which affords a secondary means of access to abutting property.

Block means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundaries of the subdivision or a combination of the above with a river.

County land use policies and plans refers to the group of maps, charts and texts that make up the comprehensive land use policies and plans of the county.

Design standards means the specifications to land owners or subdividers for the preparation of plat, both preliminary and final, indicating, among other things, the optimum, minimum or maximum dimensions of the items as rights-of-way, blocks, easements and lots.

Easement means a grant by a property owner for the use of a strip 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 drainageways and gas lines.

Final plat means a drawing or map of a subdivision, meeting all of the requirements of the county and in the form as required by the county for the purposes of recording.

Parks and playgrounds means public land and open spaces in the county dedicated or reserved for recreational purposes.

Pedestrian way means a public or private right-of-way across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lanes.

Percentage of grade means, on street centerline, the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

Preliminary plat means a tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.

Protective covenants means contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

Road means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, place or however otherwise designated.

Road, cul-de-sac, means a minor street or road with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Road width means the shortest distance between lines of lots delineating the road right-of-way.

Subdivider means any individual firm, association, syndicate, copartnership, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

Subdivision means any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all division. The term "subdivision" includes the division of land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

Tangent means a straight line that is perpendicular to the radius of a curve where a tangent meets a curve.

Vertical curve means the surface curvature on a road or highway centerline located between lines of different percentage of grade.

(Ord. of 4-20-1982(2), art. 6, § 2)

Sec. 34-4. - Required subdivision approvals.

(a) *Minor subdivisions.* No minor subdivision of land shall be final until the subdivider or his agent fulfills the requirements of section 34-29, and the instrument of conveyance has been filed with the county recorder.

(b) *Major subdivisions.* No major subdivision of land shall be final until the subdivider or his agent fulfills the following:

  (1) The subdivider or his agent has the pre-application meeting with the administrator of this chapter.

  (2) The preliminary and final plat have been received by the planning commission and approved by the board of county commissioners.

  (3) The approved plat has been filed with the county recorder.

(Ord. of 4-20-1982(2), art. 1, § 4)

Sec. 34-5. - Issuance of permits.

No building permit shall be issued for any parcel or plat of land which was created by subdivision after the effective date of the ordinance from which this chapter is derived, except in conformity with this chapter. Also, no excavation of land or construction of any public or private improvement shall take place except in conformity with this chapter.

(Ord. of 4-20-1982(2), art. 1, § 5)

Secs. 34-6—34-27. - Reserved.

ARTICLE II. - PROCEDURE

Sec. 34-28. - Application for approval of proposed subdivision required.

Whenever any subdivision of land is proposed to be made, and before any contract for the sale of or any offer to sell any lots in the subdivision or any part thereof is made, and before any permit for the creation of a structure in the proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of the proposed subdivision in accordance with this article for minor and major subdivision.

(Ord. of 4-20-1982(2), art. 2(intro.))

Sec. 34-29. - Procedure for minor subdivisions.

(a) The following divisions of land shall be submitted to the administrator of this chapter for approval without a plat:

(1) Any division of a parcel of land ten acres or less involving the sale or exchange of parcels between adjoining owners, where the sale or exchange does not create additional building sites as defined by zoning or reduce the original tract below the requirements of zoning may be submitted without a plat.

(2) Any division of a parcel of land ten acres or less involving the establishment of not more than one residence may be submitted without a plat.

(3) Any division of a parcel of land ten acres or less involving the establishment of agricultural uses including one or more dwellings may be submitted without a plat.

(b) If the administrator is satisfied that the proposed divisions as described in subsection (a) of this section are not contrary to applicable platting, subdividing, zoning, sanitary or official map regulations, the administrator shall have the authority to approve the divisions, subject to the following provisions:

(1) Description documents to be filed with the administrator:

a. A legal description, survey, and drawing thereof and computation of acreage, prepared by a registered land surveyor shall be filed with the administrator.

b. All monuments necessary to define property lines shall be in place prior to the issuance of a building permit.

c. All existing buildings within 25 feet of any property line shall be shown on the survey drawing.

(2) The administrator shall review the submitted information for conformity to all existing, valid platting, subdividing, zoning, sanitary, and official map regulations.

(3) The administrator shall, within ten working days after submission of the required information, approve or disapprove the proposed division.

(4) In the case of disapprovals, the administrator shall contact the applicant and state the reasons for the disapproval. The reason for disapproval shall be stated in writing.

(5) In the case of approvals, the administrator shall indicate that the proposed division:

a. Meets all applicable code provisions and constitutes a valid building site.

b. Meets all applicable code provisions, but does not constitute a valid building site.

(Ord. of 4-20-1982(2), art. 2, § 1)

Sec. 34-30. - Procedure for major subdivisions.

(a) *Approval of plat required.* The following divisions of land shall require approval of plat prior to recording:

(1) Any division of a parcel of land involving the establishment of two or more residences.

(2) Any division of a parcel of land involving the allocating of land for the opening, widening, or extension of any street or road.

(b) *Pre-application meeting.* Before filing an application for a preliminary plat, the subdivider shall meet with the administrator to review and discuss the extent to which the proposed subdivision conforms to this chapter, and other ordinances, as well as its conformity to the county land use policies.

(c) *Preliminary plat.*

(1) *Procedure.*

a. On reaching conclusions, informally as recommended in the pre-application meeting, regarding this chapter and other general requirements and objectives, the subdivider may prepare a preliminary plat, together with plans and other supplementary material as required by this chapter. A copy of preliminary plat of subdivisions within the floodplain or shoreland districts shall be submitted to the department of natural resources for tentative approval.

b. The subdivider shall pay the required fees upon submission of the preliminary plat.

c. The preliminary plat shall be submitted to the county planning commission at least two weeks prior to a commission meeting at which consideration is requested. Approval, conditional approval or disapproval of a preliminary plat shall be conveyed to the subdivider in writing within ten days after the meeting of the planning commission at which the plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for the action and what requirements will be necessary to meet the approval of the commission.

d. After review of the preliminary plat by the county planning commission, the preliminary plat, together with the recommendations of the commission, shall be submitted to the board of county commissioners for approval. Approval, conditional approval or disapproval of the preliminary plat will be conveyed to the subdivider in writing within ten days after the meeting of the board of county commissioners at which the plat was considered.

e. The approval of the preliminary plat does not constitute an acceptance of the subdivision for filing but is deemed to be an authorization to proceed with the preparation of the final plat. This approval of the preliminary plat shall be effective for a period of one year, unless an extension is granted by the board of county commissioners. The subdivider may file a final plat limited to the portion of the preliminary plat which he proposes to record and develop at the time, provided that the portion must conform to the approved preliminary plat.

(2) *Data required.* The subdivider shall submit ten copies of the preliminary plat complying with the following requirements:

a. Proposed name of subdivision. Names shall not duplicate or too closely resemble names of existing subdivisions.

b. Location of boundary lines in relation to known section, quarter section or quarter-quarter section lines and any adjacent corporate boundaries, comprising a legal description of the property.

c. Names and addresses of the developer and the designer making the plat.

d. Scale of plat, not less than one inch to 100 feet.

e. Date and north point.

f. Existing conditions.

1. The location and width of proposed streets, roadways, alleys and easements.

2. The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas, and power lines.

3. Layout, number and approximate dimensions of lots and the number or letter of each block.

4. Location and size of proposed parks, playgrounds, churches or school sites or other special uses of land to be considered for dedication to public use or to be reserved by deed or covenant for the use of all property owners in the subdivision and any condition of the dedication or reservation.

5. Building setback lines with dimensions.

6. Indications of any lots on which a use other than residential is proposed by the subdivider.

7. The zoning districts on and adjacent to the tract.

(3) *Supplementary data requirements.* Upon request of the county planning commission, supplementary information may include the following:

a. Topography with contour sketches of not more than two feet related to U.S. Geological Survey datum; also the location of watercourses, ravines, bridges, lakes, wooded areas, approximate acreage and other the features as may be pertinent to the subdivision.

b. A copy of the profile for each proposed street, showing existing grades and proposed approximate grades and gradients on the centerline. The location of proposed culverts and bridges shall also be shown.

c. Vicinity sketch, at a legible scale, to show the relation of the proposed subdivision to its surroundings.

(d) *Final plat.*

(1) *Procedures.* After the preliminary plat has been approved, the final plat may be submitted for approval as follows:

a. The final plat shall be submitted to the county planning commission at least two weeks prior to a planning commission meeting at which consideration is requested. Approval, conditional approval or disapproval of the final plat will be conveyed to the subdivider in writing within ten days after the meeting of the county planning commission at which the plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for the action and what requirements will be necessary to meet the approval of the commission.

b. After review of the final plat by the county planning commission and the department of natural resources for plats within floodplain or shoreland districts, the final plat, together with the recommendations of the planning commission and the department of natural resources, shall be submitted to the county board for consideration. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, roads, easements, or other public ways and open spaces dedicated to public purposes. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the board of county commissioners and reported to the person applying of the approval.

(2) *Data required.*

a. The final plat shall be on a sheet 20 inches wide and 30 inches long and shall be drawn to scale. The final plat shall comply with the requirements of M.S.A. ch. 505. Where necessary, the final plat may be on several sheets provided they are numbered and key map is presented on the sheets showing the entire subdivision. The final plat shall have incorporated all changes or modifications required and in all other respects conform to the approved preliminary plat. It may constitute only that portion of the approved preliminary plat which the subdivider proposed to record and develop, provided that the portion conforms with all the requirements of this chapter.

b. The information which is required for final plat shall be that required by M.S.A. ch. 505, plus additional requirements when the requirements do not conflict with M.S.A. ch. 505.

1. Site data the as number of lots, typical lot size, park acreage.

2. Sites, if any, for multifamily dwellings, shopping centers, industry or other non-public uses exclusive of the information about subdivision's own land use classification.

3. Supplemental data requirements. Upon request of the county planning commission, supplementary information may include the following:

(i) An attorney's opinion of title showing title or control of the property to be subdivided.

(ii) A photo positive of the final plat at one inch equals 200 feet and six prints of same.

4. Certification required on final plats.

   (i) Notarized certification by owner and by any mortgage holder of record at the adoption of the plat and the dedication of streets and other public areas.

   (ii) Notarized certification by a registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and marks shown therein exist as located and that all dimensional and geodetic details are correct.

   (iii) Space for certificate of review to be filled in by the signature of the chairperson of the township board of supervisors. The certificate of review shall be in the form prescribed by the board of commissioners.

(Ord. of 4-20-1982(2), art. 2, § 2)

Sec. 34-31. - Public hearing requirement.

Before any plat of a major subdivision may be recorded, the following requirements for a public hearing shall have been completed:

(1) Upon receipt of the proper application and other requested material for plat approval, the planning commission shall hold a public hearing in a location to be prescribed. Such public hearing may be continued from time to time and additional hearings may be held.

(2) Notice of time, place and purpose of any public hearings shall be given by publication in a newspaper of general circulation in the town, municipality or other area concerned and in the official newspaper of the county, at least ten days before the hearing.

(3) Written notice of public hearings shall be sent by letter to all property owners of record within 500 feet of the affected property in incorporated areas, and one-half mile in unincorporated areas, the affected board of town supervisors and the municipal council of any municipality within two miles of the affected property.

(4) The failure to give mailed notice to the individuals, owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subsection has been made.

(5) The above public hearing shall be held within 45 days after receipt of the completed application.

(6) Reports required. The administrator shall refer one copy of the preliminary plat to the engineer, one copy to the town board, and one copy each to the telephone and utility companies. Each may then submit a report to the administrator within 15 days. Failure to submit a report shall constitute approval of the preliminary plat. The reports permitted in this section shall be forwarded to the planning commission for their consideration.

(7) Public hearing review.

   a. The subdivider shall attend the planning commission meeting at which his proposal is scheduled for consideration.

   b. The planning commission shall study the practicability of the plat taking into consideration the requirements of the county and the best use of the land to be subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the comprehensive plan, the official map and the zoning ordinance.

   c. At the public hearing all persons interested in the proposed plat shall be heard.

(8) Action and authorization.

a. The planning commission shall, within 15 days of the hearing, modify, approve, or disapprove the proposed plat.

b. Following the closing of the public hearing, the planning commission shall request the administrator to report its findings and recommendations on the proposed plat to the county board at their next regularly scheduled board meeting.

c. Upon the filing of the report or recommendation, the county board may hold the public hearings upon the proposed plat as it deems advisable. After the conclusion of the hearings, if any, the county board may approve the proposed plat or any part thereof in the form as it deems advisable.

(9) The above public hearing requirement shall be completed for any preliminary plat of a major subdivision. The county planning commission or the county board may, at their discretion, require a public hearing on any final plat of a major subdivision. In the event they decide to require a public hearing on a final plat, the above procedures shall be followed.

(Ord. of 4-20-1982(2), art. 2, § 3)

Secs. 34-32—34-50. - Reserved.

ARTICLE III. - STANDARDS AND SPECIFICATIONS

DIVISION 1. - GENERALLY

Sec. 34-51. - Applicability; exceptions.

The requirements of this article shall be met by the subdivider unless the county board of adjustments grants a variance in accordance with the provisions of this chapter.

(Ord. of 4-20-1982(2), art. 3(intro.))

Sec. 34-52. - Conformance to official map and comprehensive plan.

Any subdivision shall be in harmony with the county land use policies and plans.

(Ord. of 4-20-1982(2), art. 3, § 1)

Sec. 34-53. - Delayed approval of subdivisions.

Where a proposed park, playground, school site, or other public site as shown in the comprehensive plan or official map is embraced in part or in whole by the boundaries of a proposed subdivision, the public land shall be reserved and no action shall be taken toward approval of a preliminary plat for a period not to exceed six months to allow the opportunity to consider and take action toward acquisition of the land by the appropriate jurisdiction.

(Ord. of 4-20-1982(2), art. 3, § 2)

Sec. 34-54. - Conformity to chapter 42.

Any subdivision shall conform to chapter 42, zoning, and its map.

(Ord. of 4-20-1982(2), art. 3, § 3)

Sec. 34-55. - Character of the land.

The land to be subdivided shall be of the character that it can be used safely for the building proposed without danger to health or peril from fire, flood, or other menaces.

(Ord. of 4-20-1982(2), art. 3, § 4)

Sec. 34-56. - Conveyances of metes and bounds.

The conveyances of parcels of less than ten acres or leaving in residue a parcel of less than ten acres by metes and bounds shall be prohibited unless the parcel was a separate parcel of record on the date of adoption of the ordinance from which this chapter is derived or was the subject of written agreement to convey entered into prior to the adoption of the ordinance from which this chapter is derived, except as otherwise regulated in section 34-29.

(Ord. of 4-20-1982(2), art. 3, § 5)

Sec. 34-57. - Registered land surveys.

All registered land surveys shall be filed and are subject to the same procedures as required by this chapter for plats. Until approval is granted by the county board, building permits shall be withheld, dedications shall not be accepted, and no public money shall be spent towards installing utilities and improvements.

(Ord. of 4-20-1982(2), art. 3, § 6)

Sec. 34-58. - Established monuments.

For both minor and major subdivisions, all international, federal, state, county and other official monuments, bench marks, triangulation points, and stations shall be preserved in their precise location; and it shall be the responsibility of the subdivider to ensure that these markers are maintained in good condition during and following construction and development. All section and quarter section corners shall be duly described, monumented and tied, and a certificate of location thereof shall be filed with the county recorder.

(Ord. of 4-20-1982(2), art. 3, § 7)

Sec. 34-59. - Preservation of natural features.

The planning commission shall recognize the natural features which add value to all improvements and to the community, such as trees or groves, watercourses and falls, beaches, historic spots, vistas and similar irreplaceable assets.

(Ord. of 4-20-1982(2), art. 3, § 8)

Sec. 34-60. - Prevention of erosion.

Subdividers shall be required to institute measures as determined and directed by the engineer to ensure the prevention of wind and water erosion during and upon completion of the construction.

(Ord. of 4-20-1982(2), art. 3, § 9)

Secs. 34-61—34-78. - Reserved.

DIVISION 2. - DESIGN STANDARD

Sec. 34-79. - Street plan.

Streets shall be of sufficient width, suitably located and adequately construed to conform with current county standards; to accommodate the prospective traffic; afford access for firefighting, snow removal and other road maintenance equipment; and shall be considered in their relationship to topographic conditions, to drainage and in their relationship to the proposed land uses to be served. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to comprise a convenient system. All subdivisions in the "FP" Floodplain District shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation.

(1) *Street arrangement.*

a. The arrangement of streets in the subdivision shall provide for the continuation of principle streets of adjoining subdivisions and for proper projection of principle streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic, and construction or extension, presently or when later required, of needed utilities and public services.

b. Minor residential streets shall be arranged so that their use by through traffic will be discouraged.

(2) *Blocks.*

a. The acreage within bounding streets shall be such as to accommodate the size of lots required in areas by the zoning ordinance and to provide for convenient access, circulation, control and safety of street traffic.

b. Blocks shall not be more than 1,320 feet in length. No block width shall be less than twice the normal lot depth, unless it abuts a railroad right-of-way, a limited access highway, major or arterial street, a river or park, or topographical restriction.

c. In blocks exceeding 900 feet in length, the planning commission may require a 20-foot wide fenced easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a five-foot wide paved path be included.

(3) *Street alignment.*

a. Street jogs shall have a centerline offset of 150 feet or more when applied to minor streets or service streets, in all other cases they shall be prohibited.

b. All streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins.

(4) *Service streets.* Where a subdivision borders on or contains a railroad right-of-way or limited-access highway right-of-way, existing or planned, the planning commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes and residential districts, or for commercial or industrial purposes in appropriate districts). Such districts shall also be determined with due regard for the requirements or approach grades and future grade separations.

(5) *Relation to topography.* The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

(6) *Treatment along major streets.* When a subdivision abuts or contains an existing or proposed arterial or major street, the planning commission my require marginal access streets, reverse frontage with screen plantings contained in a non-access reservation along the rear property line, or the other treatment as may be necessary for adequate protection of the residential properties and to afford the separation of through and local traffic.

(7) *Dead end streets (cul-de-sac).* Where dead end streets are designed, they, normally, may not exceed 500 feet in length, and shall terminate in a circular turnabout having a minimum right-of-way radius of 60 feet and a pavement radius of 50 feet. Corners at the entrance to the runabout portions of cul-de-sac shall have a radius of not less than 15 feet.

(8) *Watercourses.* Where a watercourse separates a proposed street from abutting property, provisions shall be made for access to all lots by means of culverts or other structures of a design approved by the county.

(9) *Commercial areas.*

a. In front of areas designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by the amount on each side as may be deemed necessary by the planning commission to ensure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for the commercial or business districts.

b. Paved rear service streets of a width approved by the county or adequate loading space with a suitable surface shall be provided in connection with lots designed for commercial use.

(10) *Tentative plan.* Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the un-subdivided portion may be required.

(11) *Right-of-way widths.* For all public streets and roads hereinafter dedicated and accepted, the right-of-way widths shall not be less than the minimum dimensions for each classification as follows:

County state aid highways and county roads	100 feet
Minor residential streets	60 feet
Marginal access service	50 feet

(12) *Minor street access.* Minor street access to county, county state aid, state and federal highways shall not be permitted at intervals of less than 600 feet.

(13) *Standards acceptable to engineer.* Road and highway grades, and horizontal and vertical alignment standards shall be acceptable to the county highway engineer.

(14) *Prohibited plans.* The following are prohibited and shall not be approved:

a. Half streets, unless approved by adjoining property owners.

b. Private streets.

c. Reserve strips controlling access to streets.

d. Intersecting with more than four corners.

(Ord. of 4-20-1982(2), art. 4, § 1)

Sec. 34-80. - Street names.

(a) All street names shall be approved by the planning commission and shall conform to any established numbering and naming system.

(b) Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring subdivision may bear the same name.

(c) The subdivider shall install street signs as required and approved by the county.

(Ord. of 4-20-1982(2), art. 4, § 2)

Sec. 34-81. - Utilities.

(a) *Water service.*

(1) Where connection with a public sewer system is feasible, that system shall be utilized and service shall be provided to each lot.

(2) When a public water system is not available, individual wells are permitted in accordance with subsection (g) of this section and all other applicable state and local requirements.

(b) *Sanitary sewer.*

(1) Where connection with sanitary sewer trunk lines is feasible, the subdivider shall install approved sanitary sewer and make the connection with the trunk lines so as to provide service to each lot.

(2) On-site disposal systems may be permitted provided they conform to subsection (g) of this section and all other applicable local and state requirements.

(c) *Storm sewer/drainage.*

(1) All surface and underground drainage systems shall be installed to adequately remove all natural drainage that accumulates in the developed property. All the systems shall be in conformity to the drainage plans and all piping shall provide complete removal and a permanent solution for the removal of drainage water.

(2) Where connection with an existing storm sewer system is feasible, that system shall be utilized so as to provide complete drainage of the subdivision.

(3) Drainage facilities shall be located in the street right-of-way where feasible or in perpetual unobstructed easements of appropriate width.

(4) In the absence of an existing storm sewer system, the subdivision shall be designed so as to completely be drained by a system of open ditches, culverts, pipes, or catchbasins.

(5) All drainage systems shall be approved by the county.

(d) *Electrical.*

(1) Electrical utilities, whenever feasible, shall be installed underground and completed prior to street surfacing.

(2) When overhead power lines are utilized, the poles shall be placed in a rear lot easement and positioned so as to give individual service to each lot.

(e) *Gas.* When natural gas is to be utilized, the lines shall be installed by the appropriate gas company and be completed prior to street surfacing.

(f) *Telephone.*

(1) Telephone facilities, whenever feasible, shall be installed underground and completed prior to street surfacing.

(2) When overhead telephone lines are utilized, the pole shall be placed in a rear easement and positioned so as to provide individual service to each lot.

(g) *On-site utilities.*

(1) In areas which are not served by public water and sanitary sewer, no residential lot shall be developed unless it contains sufficient surface area for the existing subsurface soil conditions so as to prevent possible pollution problems.

(2) All individual wells and on-site sewage disposal systems shall conform to the applicable state and county requirements.

(h) *Easements.*

(1) Easements at least 20 feet wide, centered on rear and other lot lines, as required, shall be provided for utilities where necessary. The easements shall have continuity of alignment from block to block and at deflection points, easements for pole line anchors shall be provided where necessary. Easements may be required along property lines from utility easement on rear lot lines to rights-of-way.

(2) Easements shall be provided along each side of the centerline of any watercourse or drainage channel to a sufficient width to provide proper maintenance and protection and to provide for water runoff and installation and maintenance of stormwater drainage systems.

(3) Where a subdivision is traversed by a watercourse, ditch, drainageway, channel or stream, there shall be provided a storm drainage right-of-way as required by the county and in no case less than 20 feet in width on each side of the back.

(4) Easements shall be dedicated for the required use.

(Ord. of 4-20-1982(2), art. 4, § 3)

Sec. 34-82. - Lots.

(a) The lot arrangement shall be such that, in constructing a building in compliance with the zoning ordinance, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of the depth as to encourage the later creation of a second building lot at the front or rear.

(b) All side lines of a lot shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.

(c) The lot dimensions shall not be less than the minimum required to secure the minimum lot area specifics in chapter 42, zoning.

(1) Corner lots shall have extra width to permit appropriate building setbacks from both streets.

(2) Through lots, when permitted, shall have additional depth of ten feet for screen planting along the rear lot line.

(3) Remnants of lots below the minimum required size, left over after subdividing of a larger tract, must be added to an adjacent lot or a plan shown as to future use rather than allowed to remain as unusable parcels.

(d) Lots abutting upon a watercourse, drainageway, channel, stream or water body shall have additional depth or width, as required to ensure that house sites are not subject to flooding.

(e) In the subdividing of any land, regard shall be shown for all natural features, such as trees, watercourses and water bodies, which, if preserved, will add attractiveness to the proposed development.

(f) Where a proposed plan is adjacent to a limited-access highway, major highway or thoroughfare, there shall be no direct vehicular access from individual lots to the roads. A temporary entrance may be granted for single tracts until neighboring land is divided and the required access can be feasibly provided.

(Ord. of 4-20-1982(2), art. 4, § 4)

Secs. 34-83—34-107. - Reserved.

DIVISION 3. - IMPROVEMENTS

Sec. 34-108. - General requirements; final plat approval.

(a) Before a final plat is approved by the county board, the board may require the subdivider of the land included in the final plat to execute and submit to the county board an agreement, which shall be binding on his heirs, personal representatives and assigns, that he will cause no private construction to be made on the plat or file or cause to be filed any application for building permits for the construction until all improvements required under this chapter have been made or arranged for in the manner following as respects the highways, roads, or streets to which the lots ought to be constructed have access.

(b) Prior to the making of the required improvements, the subdivider shall deposit with the county auditor an amount equal to 1.25 times the county's estimated cost of the improvements or a lesser amount if approved by the board, whether in cash or in indemnity bond, with sureties satisfactory to the county, conditioned upon the payment of all construction costs incurred in making of the improvements and all expenses incurred by the county for engineering and legal fees and other expense in connection with the making of the improvements.

(c) No final plat shall be approved by the county board on land subject to flooding or containing poor drainage facilities and on land which would make adequate drainage of the streets or roads and lots impossible. However, if the subdivider agrees to make improvements which will, in the opinion of the county engineer, make the area completely safe for residential occupancy, and provide adequate road and lot drainage, the final plat of the subdivision may be approved.

(d) No final plat shall be approved by the county board without first receiving a report from the county engineer certifying that the improvements described herein, together with the agreements and documents required herein, meet the minimum requirements of all applicable ordinances. Drawings showing all improvements as built shall be filed with the county engineer.

(e) All of the required improvements to be installed under the provisions of this chapter shall be inspected during the course of their construction by the county. All of the inspection costs pursuant thereto shall be paid by the subdivider in the manner prescribed in subsection (b) of this section.

(Ord. of 4-20-1982(2), art. 5, § 1)

Sec. 34-109. - Street design.

All streets shall be graded and, in areas provided with sewer and water, the county may require that the streets be improved by surfacing with concrete or plant mix bituminous or be provided with concrete curbs and gutters. Such grading and improvement shall be approved as to design and specifications of the county. In areas not served by sewer and water, curbs and gutter may not be required and streets may be of suitable compacted gravel surfaced as approved by the county.

(Ord. of 4-20-1982(2), art. 5, § 2)

Secs. 34-110—34-131. - Reserved.

ARTICLE IV. - ADMINISTRATION

DIVISION 1. - GENERALLY

Sec. 34-132. - Enforcing officer.

This chapter shall be administered and enforced by an administrator. The county zoning administrator is designated the administrator of this chapter.

(Ord. of 4-20-1982(2), art. 7, § 1)

Sec. 34-133. - Duties of the zoning administrator.

(a) The administrator is charged with the enforcement of this chapter and the regulations contained therein.

(b) The administrator shall receive and forward to the planning commission all application materials and information governed by the regulations contained in this chapter.

(Ord. of 4-20-1982(2), art. 7, § 2)

Sec. 34-134. - Variances.

Where the county board of adjustment finds that extraordinary and unnecessary hardships may result from strict compliance with this chapter, it may vary the regulations so that the general intent may be preserved and the public interest protected, provided that the variations will not have the effect of nullifying the intent and purposes of county land use policies or plans, the official map, or chapter 42, zoning.

(1) Where the county board of adjustments finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of the inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may vary the requirements subject to appropriate conditions.

(2) Application for a variance shall be made in writing by the subdivider and shall state all facts relied upon by the applicant and be supplemented with maps, plans and other additional data. The plans for variances shall include the covenants and other provisions necessary to guarantee the full achievement of the plan.

(3) In the granting of variances from this chapter, the county board of adjustments shall require the conditions as will, in its judgment, secure substantially the objectives of the standards of requirements so varied.

(4) Any variance granted shall be made by resolution and entered into the minutes setting forth the reasons which justify the resolution.

(Ord. of 4-20-1982(2), art. 7, § 3)

Sec. 34-135. - Variances permitted.

(a) *Variances.* Where the county board of adjustments finds that extraordinary and unnecessary hardships result from strict compliance with this chapter, variances may be granted, provided the variances will

not have the effect of nullifying the intent and purpose of the comprehensive plan, official map, or chapter 42, zoning.

(b) *Exceptional topography.* A variance may be granted where the subdivider can show that by reason of exceptional topography or other physical conditions the strict compliance with this chapter would cause undue hardship on the enjoyment of a substantial property right.

(Ord. of 4-20-1982(2), art. 7, § 4)

Sec. 34-136. - County board of adjustment.

(a) *Powers.* The board of adjustments shall have the authority to order the issuance of variances, hear and decide appeals from the review of any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provisions of M.S.A. §§ 394.21 to 394.37. The procedure for review by the county is outlined in chapter 42, zoning.

(b) *Procedure.* The board of adjustments shall follow applicable state laws and county ordinances in reviewing appeals from ordinances adopted pursuant to the provisions of M.S.A. §§ 394.21 to 394.37. The procedure for review by the county is outlined in chapter 42, zoning.

(Ord. of 4-20-1982(2), art. 7, § 5)

Sec. 34-137. - Amendments to the subdivision ordinance.

The procedure for amending this chapter is the same prescribed for its adoption.

(Ord. of 4-20-1982(2), art. 7, § 6)

Sec. 34-138. - Fees.

The amounts of all fees to be paid under the provisions of this chapter shall be set by the county board by resolution.

(Ord. of 4-20-1982(2), art. 7, § 7)

Secs. 34-139—34-159. - Reserved.

DIVISION 2. - VIOLATIONS AND PENALTIES

Sec. 34-160. - Sale of lots from unrecorded plats.

It shall be unlawful to sell, trade, or offer to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or parcel of any subdivision or area located within the jurisdiction of the chapter unless the plan, plat or replat shall have first been recorded with the county recorder.

(Ord. of 4-20-1982(2), art. 8, § 1)

Sec. 34-161. - Receiving and recording unapproved plats.

It shall be unlawful to receive or record in any public office any plans, plats or replats of land laid out in building lots and highways, streets, roads, alleys or other portions of the same intended to be dedicated

to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this chapter, unless approved in accordance with the requirements of this chapter.

(Ord. of 4-20-1982(2), art. 8, § 2)

Sec. 34-162. - Misrepresentations as to construction, supervision, or inspection of improvements.

It shall be unlawful for any subdivider, person, firm or corporation owning an addition or subdivision of land within the county to represent that any improvement upon any of the highways, roads, streets or alleys of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to plans and specifications approved by the county board, or has been supervised or inspected by the county when the improvements have not been so constructed, supervised, or inspected.

(Ord. of 4-20-1982(2), art. 8, § 3)

Chapter 36 - TAXATION

ARTICLE I. - IN GENERAL

Secs. 36-1—36-18. - Reserved.

ARTICLE II. - AGGREGATE MATERIAL REMOVAL PRODUCTION TAX[1]

Footnotes:

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State Law reference— Aggregate material removal production tax, M.S.A. § 298.75.

Sec. 36-19. - Definitions.

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

Aggregate material means nonmetallic natural mineral aggregate, including, but not limited to, sand, silica sand, gravel, crushed rock, limestone, granite, and borrow, but only if the borrow is transported on a public road, street, or highway. Aggregate material must be measured or weighed after it has been extracted from the pit, quarry, or deposit.

Extraction site means a pit, quarry, or deposit containing aggregate material and any contiguous property to the pit, quarry, or deposit that is used by the operator for stockpiling the aggregate material.

Importer means any person who buys aggregate material produced from a county that does not impose an aggregate material removal production tax or another state and causes the aggregate material to be imported into a county in this state that imposes a tax on aggregate material.

Operator means any person engaged in the business of removing aggregate from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the use of the aggregate in a marketable product or service.

(Res. No. 09-54, § 1.00, 3-17-2009)

Sec. 36-20. - Imposition of tax.

(a) The county imposes upon every importer and operator a production tax of 21.5 cents per cubic yard or of $0.15 per ton of aggregate material removed. Except that the county board may decide not to impose this tax if it determines that in the previous year operators removed less than 20,000 tons or 14,000 cubic yards of aggregate material from the county.

(b) The tax shall be imposed on aggregate material produced in the county when the aggregate material is transported from the extraction site or sold. When aggregate material is stored in a stockpile within the state and a public highway, road, or street is not used for transporting the aggregate material, the tax shall be imposed either when the aggregate material is sold, or when it is transported from the stockpile site, or when it is used from the stockpile, whichever occurs first. The tax shall be imposed on an importer when the aggregate material is imported into the county.

(c) If the aggregate material is transported directly from the extraction site to a waterway, railway, or another mode of transportation other than a highway, road, or street, the tax imposed shall be proportioned equally between the county where the aggregate material is extracted and the county to which the aggregate material is originally transported. If that destination is not located in the state, then the county where the aggregate material was extracted shall receive all of the proceeds of the tax.

(Res. No. 09-54, § 2.00, 3-17-2009)

Sec. 36-21. - Reporting requirements.

(a) By the 14th day following the last day of each calendar quarter every operator or importer shall make and file with the county auditor in which the aggregate material is removed or imported, a correct report under oath, in the form and containing the information as the auditor shall require relative to the quantity of aggregate material removed or imported during the preceding calendar quarter. The report shall be accompanied by a remittance of the amount of tax due.

(b) If any of the proceeds of the tax is to be apportioned, the operator or importer shall also include in the report any relevant information concerning the amount of aggregate material transported, the tax and the county of destination. The county auditor shall notify the county treasurer of the amount of the tax and the county to which it is due. The county treasurer shall remit the tax to the appropriate county within 30 days.

(c) If the county auditor has not received the report required by this section by the 15th day after the last day of each calendar quarter from the operator or importer, or has received an erroneous report, the county auditor shall estimate the amount of tax due and notify the operator or importer by registered mail of the amount of tax so estimated within the next 14 days.

(d) An operator or importer may, within 30 days from the date of mailing the notice, and upon payment of the amount of tax determined to be due, file in the office of the county auditor a written statement of objections to the amount of taxes determined to be due. The statement of objections shall be deemed to be a petition within the meaning of M.S.A. ch. 278 and shall be governed by M.S.A. §§ 278.02 and 278.13.

(Res. No. 09-54, § 3.00, 3-17-2009)

State Law reference— Petition may include several items or parcels, M.S.A. § 278.02; judgment to be final, M.S.A. § 278.13.

Sec. 36-22. - Enforcement, violations, and penalties.

(a) Failure to file the report and submit payment shall result in a penalty of $5.00 for each of the first 30 days, beginning on the 15th day after the last day of each calendar quarter, for which the report and payment is due and no statement of objection has been filed, and a penalty of $10.00 for each subsequent day shall be assessed against the operator or importer who is required to file the report. The penalties imposed shall be collected as part of the tax and credited to the county revenue fund. If neither the report nor a statement of objection has been filed after more than 60 days have elapsed from the date when the notice was sent, the operator or importer who is required to file the report is guilty of a misdemeanor.

(b) It is a misdemeanor for any operator or importer to remove aggregate from a pit, quarry, or deposit, or for any importer to import aggregate material, unless all taxes due under this article for the previous reporting period have been paid or objections thereto have been filed.

(c) It is a misdemeanor for the operator or importer who is required to file and report to file a false report made with intent to evade the tax.

(d) The county auditor or its duly authorized agent may examine records, including computer records, maintained by an importer or operator. The term "records" includes, but is not limited to, all accounts of an importer or operator. The county auditor or its duly authorized agent must have access at all reasonable times to inspect and copy all business records related to an importer's or operator's collection, transportation, and disposal of aggregate material to the extent necessary to ensure that all aggregate material production taxes required to be paid have been remitted to the county. The records must be maintained by the importer or operator for no less than six years.

(e) Any person who shall violate this article shall be guilty of a misdemeanor and, upon conviction thereof, punished by a fine not to exceed $700.00 or by imprisonment in the county jail for a period not to exceed 90 days, or both.

(Res. No. 09-54, § 4.00, 3-17-2009)

Sec. 36-23. - Distribution or revenues.

All money collected as taxes under this article shall be deposited in the county treasury and credited as follows, for expenditure by the county board:

(1) Five percent of the total tax collected by the county shall be retained by the county auditor as an administrative fee;

(2) 42.5 percent to the county road and bridge fund (after five percent is deducted) for expenditure for the maintenance, construction, and reconstruction of roads, highways, and bridges;

(3) 42.5 percent to township/city general fund where the mine is located (after five percent is deducted) or to the county, if the mine is located in an unorganized township; and

(4) 15 percent (after five percent is deducted) to a special reserve fund which is established, for expenditure for the restoration of abandoned pits, within the county, provided that if there are no abandoned pits, quarries, or deposits located within the county, this portion of the tax shall be used for any other unmet reclamation needs or for conservation or other environmental needs.

(Res. No. 09-54, § 5.00, 3-17-2009)

Chapter 38 - TRAFFIC AND VEHICLES

(RESERVED)

Chapter 40 - UTILITIES

ARTICLE I. - IN GENERAL

Secs. 40-1—40-18. - Reserved.

ARTICLE II. - SEWAGE TREATMENT AND DISPERSAL

Sec. 40-19. - Purpose and intent.

The purpose of this article is to establish minimum requirements for regulation of ISTS and MSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the county to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. Further, this chapter is intended to serve the best interests of the county's citizens by protecting its health, safety, general welfare, and natural resources, and to promote the:

(1) Protection of lakes, rivers and streams, wetlands, and groundwater in the county essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the county.

(2) 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) 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) Appropriate utilization of privy vaults and other non-water-carried sewage collection and storage facilities.

(5) 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.

(Ord. No. 4, art. I, § 1.0, 4-1-2009)

Sec. 40-20. - Authority.

This article is adopted pursuant to M.S.A. §§ 115.55, 145a.01 through 145a.08, 375.51, and Minn. Admin. Rules chs. 7080, 7081, and 7082.

(Ord. No. 4, art. I, § 2.0, 4-1-2009)

State Law reference— Subsurface sewage treatment systems, M.S.A. § 115.55; local public health boards, M.S.A. § 145a.01 et seq.; authority for enactment of county ordinances, M.S.A. § 375.51; authority to carry on county planning and zoning, M.S.A. § 394.21.

Sec. 40-21. - Definitions.

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

Authorized representative means an employee or agent of the county environmental services department.

Board of adjustment means a board established by county ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any

ordinance adopted pursuant to the provision of M.S.A. §§ 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform the other duties as required by the official controls.

Class V injection well means a shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The federal Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface, provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 and 146).

Cluster system means 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.

Department means the county environmental services department.

Design flow means the daily volume of wastewater for which an SSTS is designed to treat and discharge.

Failure to protect groundwater. At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in Minn. Admin. Rules § 7080.1500(4)(d) and (e); and a system not abandoned in accordance with Minn. Admin. Rules § 7080.2500. The determination of the threat to groundwater for other conditions must be made by a qualified employee or an individual licensed pursuant to this chapter.

Imminent threat to public health and safety means, at a minimum, a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or stormwater drains or directly to surface water; SSTS that causes a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a qualified employee or a SSTS inspection business licensed pursuant to this chapter.

Industrial waste means sewage containing waste from activities other than sanitary waste from industrial activities, including, but not limited to, the following uses defined under the Standard Industrial Classification (SIC) Codes established by the U.S. Office of Management and Budget:

SIC Codes	Industry Category
753-7549	Automotive repairs and services
7231, 7241	Beauty shops, barber shops
7211-7219	Laundry cleaning and garment services
4011-4581	Transportation (maintenance only)
8062-8069	Hospitals

2000-3999	Manufacturing
2000-2099	Food products
2100-2199	Tobacco products
2400-2499	Lumber and wood products, except furniture
2500-2599	Furniture and fixtures
2600-2699	Paper and allied products
2700-2799	Printing, publishing, and allied industries
2800-2899	Chemicals and allied products
2900-2999	Petroleum refining and related industries
3000-3099	Rubber and miscellaneous plastics
3100-3199	Leather tanning and finishing
3000-3099	Rubber and miscellaneous plastics
3100-3199	Leather tanning and finishing

3200-3299	Stone, clay, glass, and concrete products
3300-3399	Primary metal industries
3400-3499	Fabricated metal products (except machinery, and transportation equipment)
3500-3599	Industrial and commercial machinery and computer equipment
3700-3799	Transportation equipment
3800-3899	Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks
3900-3999	Miscellaneous manufacturing industries

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

LSTS means a large subsurface sewage treatment system under single ownership that receives sewage from dwellings or other establishments having a design flow of 10,000 gallons per day or greater.

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

Management plan means a plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

Minor repair means 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 concept of the SSTS.

MPCA means the Minnesota Pollution Control Agency.

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

Notice of noncompliance means a written document issued by the department notifying a system owner that the owner's on-site/cluster treatment system has been observed to be noncompliant with the requirements of this chapter.

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

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

Sewage means 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.

SSTS means subsurface sewage treatment system, including an ISTS, MSTS or LSTS.

Treatment level means treatment system performance levels defined in Minn. Admin. Rules ch.7083.4030, Table III, for testing of proprietary treatment products, which include the following:

(1) Level A: $cBOD_5 \leq 15$ mg/l; TSS ≤ 15 mg/l; fecal coliforms ≤ 1,000/100 ml.

(2) Level B: $cBOD_5 \leq 25$ mg/l; TSS ≤ 30 mg/l; fecal coliforms ≤ 10,000/100 ml.

(3) Level C: $cBOD_5 \leq 125$ mg/l; TSS ≤ 80 mg/l; fecal coliforms N/A.

Type I system means an ISTS that follows a standard trench, bed, at-grade, mound, or gray water system design in accordance with Minn. Admin. Rules §§ 7080.2200 through 7080.2240.

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

Type III system means a custom-designed ISTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

Type IV system means an ISTS having an approved pretreatment device and incorporating pressure distribution and dosing that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.

Type V system means an ISTS which is a custom-engineered design to accommodate the site, taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics that groundwater contamination by viable fecal coliforms is prevented.

(Ord. No. 4, art. II, 4-1-2009)

Sec. 40-22. - Scope.

This article regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTSs within the county's applicable jurisdiction, including, but not necessarily limited to, individual SSTSs and cluster or community SSTSs, privy vaults, and other non-water-carried SSTSs. All sewage generated in any 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 article or by a system that has been permitted by the MPCA.

(Ord. No. 4, art. III, § 1.0, 4-1-2009)

Sec. 40-23. - Jurisdiction.

The jurisdiction of this article shall include all lands of the county except for incorporated areas that administer an SSTS program by ordinance within their incorporated jurisdiction, which is at least as strict

as this article and has been approved by the county. The county environmental services department shall keep a current list of local jurisdictions within the county administering an SSTS program.

(Ord. No. 4, art. III, § 2.0, 4-1-2009)

Sec. 40-24. - Interpretation.

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

(Ord. No. 4, art. XIII, 4-1-2009)

Sec. 40-25. - Abrogation and greater restrictions.

It is not intended by this article to repeal, abrogate, or impair any other existing county ordinance, easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are repealed to the extent of the inconsistency only.

(Ord. No. 4, art. XV, 4-1-2009)

Sec. 40-26. - Administration.

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

(b) *State.* Where a single SSTS or group of SSTSs under single ownership within one-half mile of each other have a design flow greater than 10,000 gallons per day, the owner shall make application for and obtain a state disposal system permit from MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a state disposal system permit is required. SSTSs serving establishments or facilities licensed or otherwise regulated by the state shall conform to the requirements of this article.

(c) *Cities and townships.* Any jurisdiction within the county that regulates SSTS must comply with the standards and requirements of this article. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this article.

(Ord. No. 4, art. III, § 3.0, 4-1-2009)

Secs. 40-27—40-55. - Reserved.

ARTICLE III. - FEES

Sec. 40-56. - Established.

From time to time, the county board of commissioners shall establish fees for activities undertaken by the department pursuant to this chapter. Fees shall be due and payable at a time and in a manner to be determined by the department.

(Ord. No. 4, art. XII, 4-1-2009)

Sec. 40-57. - Liability.

Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees, or other contract agents, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any on-site or cluster treatment system regulated under this chapter by reason of standards, requirements, or inspections authorized hereunder.

(Ord. No. 4, art. III, § 5.0, 4-1-2009)

Secs. 40-58—40-87. - Reserved.

ARTICLE IV. - SUBSURFACE SEWAGE TREATMENT SYSTEM

DIVISION 1. - GENERALLY

Sec. 40-88. - Retroactivity.

(a) *All SSTSs.* Except as explicitly set forth in subsection (b) of this section, all provisions of this article shall apply to any SSTS, regardless of the date it was originally permitted.

(b) *Existing permits.* Unexpired permits which were issued prior to the effective date of the ordinance from which this article is derived 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) *SSTSs on lots created before January 23, 1996.* All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minn. Admin. Rules §§ 7080.2200 through 7080.2230 or site conditions described in Minn. Admin. Rules § 7081.0270(3) to (7).

(d) *Existing SSTSs without permits.* Existing SSTSs with no permits of record shall require a permit and be brought into compliance with the requirements of this article regardless of the date they were originally constructed.

(Ord. No. 4, art. IV, § 1.0, 4-1-2009)

Sec. 40-89. - Upgrade, repair, replacement, and abandonment.

(a) *SSTS capacity expansions.* Expansion of an existing SSTS may include upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this article at the time of the expansion.

(b) *Bedroom or bathroom additions.* The owner is allowed ten months from the date of issuance of a bedroom or bathroom addition permit to upgrade, repair, replace or abandon an existing system if any of the following conditions apply:

  (1) The environmental services department issues a permit to add a bedroom or bathroom.

  (2) An SSTS inspection is triggered by a bedroom or a bathroom addition permit request.

  (3) No official county records exist for the sewer system at this site.

  (4) The SSTS does not comply with Minn. Admin. Rules § 7080.1500(4)(b).

  (5) The SSTS is determined to be an imminent threat to public health or safety in accordance with Minn. Admin. Rules § 7080.1500(4)(a).

(c) *Failure to protect groundwater.* An SSTS that is determined not to be protective of groundwater in accordance with Minn. Admin. Rules § 7080.1500(4)(b) shall be upgraded, repaired, replaced or

abandoned by the owner in accordance with the provisions of this article within five years of receipt of a notice of noncompliance.

(d) *Imminent threat to public health or safety.* An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minn. Admin. Rules § 7080.1500(4)(a) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this article within ten months of receipt of a notice of noncompliance.

(e) *Abandonment.* Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minn. Admin. Rules § 7080.2500.

(Ord. No. 4, art. IV, § 2.0, 4-1-2009)

Sec. 40-90. - SSTS in floodplains.

SSTSs shall not be located in a floodway and, wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minn. Admin. Rules § 7080.2270 and all relevant local requirements are met.

(Ord. No. 4, art. IV, § 3.0, 4-1-2009)

Sec. 40-91. - Class V injection wells.

All owners of new or replacement SSTSs that are considered to be Class V injection wells, as defined in the 40 CFR part 144, are required by the federal government to submit SSTS inventory information to the Environmental Protection Agency as described in 40 CFR part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

(Ord. No. 4, art. IV, § 4.0, 4-1-2009)

Sec. 40-92. - SSTS practitioner licensing.

No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance, or pumping of SSTSs without an appropriate and valid license issued by MPCA in accordance with Minn. Admin. Rules ch. 7083, except as exempted in Minn. Admin. Rules § 7083.0700. The county may require any person seeking any exemption listed in Minn. Admin. Rules § 7083.0700 to attend MPCA-certified SSTS construction training or sign and have on record at the environmental services department an agreement indemnifying the county against claims due to the failure of the landowner to comply with any provision of this article.

(Ord. No. 4, art. IV, § 5.0, 4-1-2009)

Sec. 40-93. - Prohibitions.

(a) *Occupancy or use of a building without a compliant SSTS.* It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this article.

(b) *Sewage discharge to ground surface or surface water.* It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this article which results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the national pollutant discharge elimination system program by the MPCA.

(c) *Sewage discharge to a well or boring.* It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minn. Admin. Rules § 4725.2050, or any other excavation in the ground that is not in compliance with this article.

(d) *Discharge of hazardous or deleterious materials.* It is unlawful for any person to discharge into any treatment system regulated under this article any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

(Ord. No. 4, art. IV, § 6.0, 4-1-2009)

Secs. 40-94—40-114. - Reserved.

DIVISION 2. - SSTS STANDARDS

Sec. 40-115. - Standards adopted by reference.

The county adopts by reference Minn. Admin. Rules chs. 7080 and 7081 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 M.S.A. § 115.55.

(Ord. No. 4, art. V, § 1.0, 4-1-2009)

Sec. 40-116. - Amendments to the adopted standards.

(a) The county may require any person seeking any exemption listed in Minn. Admin. Rules § 7083.700 to attend MPCA-certified SSTS construction training or sign and have on record at the environmental services department an agreement indemnifying the county against claims due to failure of the landowner to comply with the provisions of this article.

(b) County-permitted sewage disposal systems installed prior to June 18, 2002, and not located in shoreland or wellhead protection areas or serving a food, beverage, or lodging establishment shall have not less than two feet of vertical separation between the system bottom and saturated soil or bedrock.

(c) All costs associated with the repair or replacement of a failing/noncompliant sewage treatment system shall be the responsibility of the property owner or as otherwise provided for in written agreement and on file at the environmental services department.

(d) When official records of a sewage disposal system are not on file at the department for a property involved in the transfer or sale of that property, it shall be considered a violation of this article.

(e) A MPCA compliance inspection form for an existing subsurface sewage treatment system must be completed and on file with the department prior to the issuance of any conditional use permit or a variance request receiving official approval on any parcel of property.

(f) An approved county holding tank service agreement shall be signed and on record in the department prior to any tank installation.

(g) For determination of hydraulic loading rate and SSTS sizing, Table IX (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 IX(a) (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. Admin. Rules § 7080.2150(3)(e), adopted by reference in this article, shall be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design.

(h) County-permitted SSTS built before June 18, 2002, located outside of areas designated as shoreland areas, wellhead protection areas, or SSTSs providing sewage treatment for food, beverage, or lodging

establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

(i) SSTSs built after June 18, 2002, in the county shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this article. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

(j) Installation of holding tanks, the specific conditions under which their use will be allowed, are specified in Minn. Admin. Rules § 7082.0100(3g). All holding tanks shall comply with Minn. Admin. Rules § 7080.2290(a) through (f). Further, all owners of holding tanks may be issued an operating permit which will include the provisions listed in Minn. Admin. Rules § 7082.0600(2b)(1) through (8).

(k) The county will prohibit or severely limit the use of holding tanks, although holding tanks are a practical method of handling wastewater for a variety of applications where water use is low, such as in seasonal homes, buildings located on sensitive sites, parks, playgrounds service station drains, etc. However, reliable management, which ensures that the tanks are pumped and the contents are hauled to permitted treatment facilities, is a critical and necessary element of holding tank use. Proper management assured, holding tanks offer safe, effective and affordable options for low water use applications. Example holding tank provisions are as follows:

(1) *Restrictive provision.* Holding tanks may be allowed where it can be shown conclusively that a SSTS permitted under this article cannot be feasibly installed. Holding tanks shall not be allowed for all other wastewater applications.

(2) *Conditional provision.* Holding tanks may be used for limited water use under the following conditions:

a. The owner shall install a holding tank in accordance with Minn. Admin. Rules § 7080.2290.

b. The owner may be required to install a water meter to continuously record indoor water use.

c. The owner shall maintain a valid contract with a licensed liquid waste hauler to pump and haul the holding tank to a licensed treatment facility.

d. The holding tank shall be regularly pumped, no less frequently than bi-weekly or other regular schedule agreed upon with the department.

e. The pumper shall certify each date the tank is pumped, the volume of the liquid waste removed, the treatment facility to which the waste was discharged, and the water meter reading at the time of pumping and report to the department that the holding tank is pumped less frequently than bi-weekly or other schedule agreed upon with the department.

Failure to meet these restrictive provisions will result in referral to the county attorney for prosecution.

(Ord. No. 4, art. V, § 2.0, 4-1-2009)

Sec. 40-117. - Variances.

(a) A property owner may request a variance from the standards as specified in this article pursuant to county policies and procedures.

(b) Variances that pertain to the standards and requirements of the state department of health must be approved by the affected state agency pursuant to the requirements of the state agency.

(c) The county may request a variance from Minn. Admin. Rules ch. 7082 or public health or environmental protection standards in Minn. Admin. Rules § 7080.2150(2) and Minn. Admin. Rules § 7081.0080(2) through (5) from MPCA.

(d) The county may approve variances from standards and criteria not listed above on a case-by-case basis. The county sanitarian or environmental services department designee shall have the authority to consider variances to horizontal setbacks from property lines, rights-of-way, structures, or buildings. Variances shall only be permitted when they are in harmony with the general purposes and intent of this article where there are practical difficulties or particular hardship in meeting the strict letter of this article.

(e) Variance requests to deviate from the design flow determination procedures in Minn. Admin. Rules § 7081.0110, if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in Minn. Admin. Rules §§ 7080.2150(2) and 7081.0080(2) through (5) regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in Minn. Admin. Rules § 7082.1700(4d)), must be approved by MPCA.

(f) Variances to wells and water supply lines must be approved by the state department of health.

(g) Any property owner requesting relief from the strict application of the provisions in this article must complete and submit an application for variance to the department on a form provided by the department. The variance request must include, as applicable:

(1) A statement identifying the specific provisions in the article from which the variance is requested;

(2) A description of the hardship that prevents compliance with the rule;

(3) The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;

(4) The length of time for which the variance is requested;

(5) Cost considerations only if a reasonable use of the property does not exist under the term of the article; and

(6) Other relevant information requested by the department as necessary to properly evaluate the variance request.

(h) The appropriate fee shall be paid at the time of submittal of the application to receive consideration.

(i) Upon receipt of the variance application, the department shall decide if a site investigation conducted by the department will be necessary.

(Ord. No. 4, art. V, § 3.0, 4-1-2009)

Secs. 40-118—40-147. - Reserved.

DIVISION 3. - SSTS PERMITTING

Sec. 40-148. - Permit required.

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate permit from the county environmental services department. The issuing of any permit, variance, or conditional use under the provisions of this article shall not absolve the applicant of responsibility to obtain any other required permit.

(Ord. No. 4, art. VI, § 1.0, 4-1-2009)

Sec. 40-149. - Sewer permit.

(a) *Generally.* A 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, repair, or

capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this article by appropriately certified or licensed practitioners.

(b) *Activities requiring a permit.* A 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.

(c) *Activities not requiring a permit.* A 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.

(d) *Sewer permit required to obtain building permit.* For any property on which a SSTS permit is required, approval and issuance of a valid SSTS permit shall be obtained before (or as otherwise agreed to in writing) a building or land use permit is issued by the department.

(e) *Conformance to prevailing requirements.* Any construction activity involving an existing SSTS system that requires issuance of an updated sewer permit shall require that the entire SSTS system be brought into compliance with this article.

(f) *Permit application requirements.* Sewer permit applications shall be made on forms provided by the environmental services department/MPCA and signed by the property owner and certified SSTS practitioner, including the practitioner's certification number and date of expiration. The applications shall include the following information and documents:

(1) Name, mailing address, telephone number, and email address.

(2) Property identification number and address or other description of property location.

(3) Site evaluation report as described in Minn. Admin. Rules § 7080.1730.

(4) Design report as described in Minn. Admin. Rules § 7080.2430.

(5) Management plan as described in Minn. Admin. Rules § 7082.0600.

(g) *Application review and response.* The department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this article, the department may issue a sewer 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 initiating any construction, modification, or operation for approval or denial. The department shall complete the review of the amended application. If the permit application is incomplete or does not meet the requirements of this article, the department shall deny the application. A notice of denial may be provided to the applicant, which would state the reasons for the denial.

(h) *Appeal.* The applicant may appeal the department's decision to deny the sewer permit in accordance with the county's established policies and appeal procedures.

(i) *Permit expiration.* The sewer permit is valid from its date of issue. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in conformance with the approved design documents by a qualified employee of the department or a licensed inspection business, which is authorized by the department and independent of the owner and the SSTS installer.

(j) *Transferability.* A sewer permit may be transferred to a new property owner.

(k) *Suspension or revocation.* The department may suspend or revoke a sewer permit issued under this section for any false statements, misrepresentations of facts on which the sewer 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 may be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system shall not commence or continue until a valid sewer permit is obtained.

(l) *Posting.* The sewer permit shall be posted on the property in a location and manner such that the permit is visible and available for inspection until construction is completed and certified.

(Ord. No. 4, art. VI, § 2.0, 4-1-2009)

Sec. 40-150. - Operating permit.

(a) *When required.* An operating permit shall be required of all owners of new holding tanks or MSTSs or any other system deemed by the department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTS until the environmental services department certifies that the MSTS or holding tank 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.

(b) *Application requirements.* Application for an operating permit shall be made on a form provided by the environmental services department following any SSTS expansion that requires a permit, or following any SSTS enforcement action.

(c) *Department response.* The department shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the department. If the submitted documents fulfill the requirements, the department may issue an operating permit within ten working days of receipt of the permit application.

(d) *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 noncompliant conditions.

(8) Valid contract between the owner and a licensed maintenance business.

(9) Disclosure, location and condition of acceptable soil treatment and dispersal system site.

(10) Descriptions of acceptable and prohibited discharges.

(e) *Expiration and renewal.* Operating permits shall be valid for the specific term stated on the permit as determined by the department. An operating permit shall be renewed prior to 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 90 calendar days of the expiration date, the county may require that the system be abandoned in accordance with section 40-89. The department may notify the holder of an operating permit prior to expiration of the permit. The owner shall apply for renewal at least 30 calendar days before the expiration date. Application shall be made on a form provided by the department, including:

(1) Applicant name, mailing address and phone number.

(2) Reference number of previous owner's operating permit.

(3) Any and all outstanding compliance monitoring reports as required by the operating permit.

(4) Certified treatment system inspection signed or sealed by a certified designer, maintenance contractor, or operator at the discretion of the county.

(5) Any revisions made to the operation and maintenance manual.

(f) *Amendments to existing permits.* The county may amend an existing permit to reflect changes in this article.

(g) *Transfers.* The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with subsection (b) of this section. The department shall terminate the current permit within 60 calendar days after the date of sale if an imminent threat to public health and safety exists. To consider the new owner's application, the department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

(h) *Suspension or revocation.* 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. Notice of suspension or revocation and the reasons for suspension or revocation may be conveyed in writing to the owner. If suspended or revoked, the department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with section 40-151. At the department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

(i) *Compliance monitoring.* Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit. A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. 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:

(1) Owner name and address.

(2) Operating permit number.

(3) Average daily flow since last compliance monitoring report.

(4) Description of type of maintenance and date performed.

(5) Description of samples taken (if required), analytical laboratory used, and results of analyses.

(6) Problems noted with the system and actions proposed or taken to correct them.

(7) Name, signature, license and license number of the licensed professional who performed the work.

(Ord. No. 4, art. VI, § 3.0, 4-1-2009)

Sec. 40-151. - Abandonment.

(a) Whenever the use of an 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 article may be prohibited.

(b) 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.

(c) An owner of an SSTS may retain a licensed installation business to abandon all components of the treatment system within 30 calendar days of a system installation. Abandonment shall be completed in accordance with Minn. Admin. Rules § 7080.2500. Notification of the department of an owner's intent to abandon a system is necessary.

(d) A report of abandonment certified by the licensed installation business shall be submitted to the department. The report shall include:

(1) Owner's name and contact information.

(2) Property address.

(3) System construction permit and operating permit.

(4) The reasons for abandonment.

(5) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

(Ord. No. 4, art. VI, § 4.0, 4-1-2009)

Sec. 40-152. - Abandonment certificate.

Upon receipt of an abandonment report and its determination that the SSTS has been abandoned according to the requirements of this article, the department may issue an abandonment certificate. If the abandonment is not completed according the requirements of this article, the county will notify the owner of the SSTS and the SSTS contractor of the deficiencies, which shall be corrected within 30 calendar days of the notice.

(Ord. No. 4, art. VI, § 4.0, 4-1-2009)

Secs. 40-153—40-172. - Reserved.

DIVISION 4. - MANAGEMENT PLANS

Sec. 40-173. - Purpose.

The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.

(Ord. No. 4, art. VII, § 1.0, 4-1-2009)

Sec. 40-174. - Requirements.

(a) *Generally.* Management plans are required for all new or replacement SSTSs. The management plan shall be submitted to the department with the SSTS application plans for review and approval. The department shall be notified of any system modifications made during construction and the management plan revised and resubmitted prior to the time of final construction certification.

(b) *Required contents.* 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) Other requirements as determined by the department.

(c) *Permitted contents.* Management plans may include a description of the system and each component, how the system functions, a plot plan of the system, equipment specifications, emergency operating procedures in the event of a malfunction, and a troubleshooting guide.

(d) *Requirements for systems not operated under a management plan.* SSTSs that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minn. Admin. Rules § 7080.2450.

(Ord. No. 4, art. VII, § 2.0, 4-1-2009)

Secs. 40-175—40-201. - Reserved.

DIVISION 5. - COMPLIANCE MANAGEMENT

Sec. 40-202. - Public education outreach.

Programs may periodically be provided by the department or others to increase public awareness and knowledge of SSTSs. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

(Ord. No. 4, art. VIII, § 1.0, 4-1-2009)

Sec. 40-203. - Compliance inspection program.

(a) *Department responsibility.* The department shall have responsibility for ensuring compliance, as follows:

(1) The department may perform or require its agents or any SSTS contractors to perform various SSTS compliance inspections to ensure that the requirements of this article are met, as described in Minn. Admin. Rules § 7082.0700(2) and (3) except for Minn. Admin. Rules § 7082.0700(3)(c).

(2) SSTS compliance inspections shall be performed to ensure system compliance before issuance of a conditional use permit, granting of a variance, or issuance of a permit for addition of a bedroom or bathroom, unless the permit application is made during the period of November 15 to April 15, in which case the compliance inspection must be performed before the following June 1 and the applicant must submit a certificate of compliance by the following June 15. Inspections are also required for all new SSTS construction or replacement and for an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such inspection constitutes a compliance inspection and shall be conducted in accordance with Minn. Admin. Rules § 7082.0700 using the SSTS inspection report forms provided by MPCA.

(3) All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

(4) The department shall be given access to enter a property at any reasonable time to inspect or monitor the SSTS system. The department may notify the owner of the department's intent to inspect the SSTS in advance of the intended inspection. No person shall hinder or otherwise interfere with the department's employees in the performance of their duties and responsibilities

pursuant to this article. Refusal to allow reasonable access to the property by the department shall be deemed a separate and distinct offense.

(b) *New construction or replacement inspections.* The following shall apply to new or replacement construction:

(1) Compliance inspections must be performed on new or replacement SSTSs to determine compliance with Minn. Admin. Rules ch. 7080 or 7081. SSTSs found not to be in compliance with Minn. Admin. Rules § 7080.1500(4a) or 7081.0080(3) must be repaired or replaced within ten months or as directed under M.S.A. ch. 145a. SSTSs that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the department's requirements.

(2) It is the responsibility of the SSTS owner or the owner's agent to notify the department two calendar days prior to any permitted work on the SSTS.

(3) Certificate of compliance. A certificate of compliance for new SSTS construction or replacement, which shall be valid for five years, shall be issued by the department if the department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit. No SSTS shall be placed into operation until a valid certificate of compliance has been issued. Certificates of compliance for new construction or replacement shall remain valid for five years from the date of issue unless the department finds evidence of noncompliance. The certificate of compliance must:

a. Include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the article requirements and, if the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the property owner.

b. Be submitted to the department, and to the property owner or owner's agent, no later than 15 calendar days after the date the inspection was performed, provided that the department may then send a certificate of compliance or notice of noncompliance to the owner or the owner's agent within 90 calendar days of receipt from the certified inspector.

(c) *Existing systems.* Compliance inspections shall be required when any of the following conditions occur:

(1) When a permit is required to repair, modify, or upgrade an existing system.

(2) 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.

(3) 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.

(4) At any time as required by this article or the department deems appropriate, such as upon receipt of a complaint or other notice of a system malfunction.

(5) Compliance inspections of existing SSTSs shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed or verified:

a. Watertightness assessment of all treatment tanks, including a leakage report.

b. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock, including a vertical separation verification report. Minn. Admin. Rules § 7082.0700(4)(b)(2) requires that a vertical separation report include verifications by two independent parties, which may be licensed inspection businesses or a qualified employee inspector with jurisdiction. A dispute resolution procedure described in Minn. Admin. Rules § 7082.0700(5) may be followed to settle any dispute between two verifying inspectors.

c. Sewage backup, surface seepage, or surface discharge, including a hydraulic function report. The requirements for the inspection reports in this section are described in Minn. Admin. Rules § 7082.0700(4)(b).

(6) The certificate of compliance must include a certified statement by a qualified employee or licensed inspection business, indicating whether the SSTS is in compliance with state and local SSTS requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those provisions with which the SSTS does not comply. A sewer permit application shall be submitted to the department for any required corrective actions other than a minor repair.

(7) The certificate of compliance or notice of noncompliance must be submitted to the department and the property owner or the owner's agent no later than 15 calendar days after the date the inspection was performed. The department may deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 90 calendar days of receipt from the licensed inspection business.

(8) Certificates of compliance for existing SSTSs shall remain valid for three years from the date of issue unless the department finds evidence of noncompliance.

(9) SSTS on properties sold or transferred to new owners shall be repaired, replaced, or upgraded as determined by a compliance inspection, records search, or other means acceptable to the department that are conducted prior to ownership transfers. The determination of need to repair, replace, or upgrade shall precede the property sale transaction.

(d) *Transfer of properties.* The following shall apply upon a transfer of property ownership:

(1) 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:

a. A compliance inspection has been performed and a certificate has been issued by the department.

b. The compliance inspection must have been performed by a qualified employee of the department or a licensed inspection business following procedures described in section 40-203.

c. The seller of the property must disclose in writing information about the status and location of all known ISTSs on the property to the buyer on a form acceptable to the department.

d. If the seller fails to provide a certificate of compliance, the seller shall provide the buyer sufficient security in the form of an escrow agreement to ensure the installation of a complying ISTS. The security shall be placed in an escrow with a licensed attorney-at-law, or federal or state chartered financial institution. The amount escrowed shall be equal to 150 percent of a written estimate to install a complying ISTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110 percent of the written contract price for the installation of a complying ISTS provided by a licensed and certified installer. After a complying SSTS has been installed and a certificate of compliance issued, the department shall provide the escrow agent a copy of the certificate of compliance.

(2) The compliance portion of the certificate of compliance need not be completed if the sale or transfer involves the following circumstances:

a. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.

b. Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system; any dwellings or other buildings that are located within the jurisdiction of a county-approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.

(3) All property conveyances subject to this article occurring during the period between November 15 and April 15, when SSTS compliance cannot be determined due to frozen soil conditions, shall require a winter agreement, which includes an application for an SSTS permit and an agreement to complete a compliance inspection by the following June 1 by a licensed inspection business. If, upon inspection, the system is found to be noncompliant, an escrow agreement must be established in accordance with subsection (d)(1)d of this section and the system upgraded.

(4) The responsibility for filing the completed compliance portion of the certificate of compliance under subsection (d)(1) of this section, or for upgrading a system found to be noncompliant, shall be the responsibility of the property seller. Buyer and seller shall provide the department with a signed statement indicating responsibility for completing the compliance portion of the certification and for upgrading a system found to be nonconforming.

(5) Neither the issuance of permits, certificates of compliance, nor notices of noncompliance 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 with the provisions of these standards and regulations.

(Ord. No. 4, art. VIII, § 2.0, 4-1-2009)

Secs. 40-204—40-229. - Reserved.

DIVISION 6. - ENFORCEMENT

Sec. 40-230. - Violations.

(a) *Cause to issue a notice of violation.* Any person, firm, agent, or corporation who violates any of the provisions of this article, or who fails, neglects, or refuses to comply with the provisions of this article, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable as defined by state law. Each day that a violation exists shall constitute a separate offense.

(b) *Notice of violation.* The department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this article. The notice of violation shall contain:

(1) A statement documenting the findings of fact determined through observations, inspections, or investigations;

(2) A list of specific violations of this article;

(3) Specific requirements for correction or removal of the specified violations;

(4) A mandatory time schedule for correction, removal and compliance with this article.

(c) *Cease and desist orders.* Cease and desist orders may be issued when the department has probable cause that an activity regulated by this or any other county ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

(Ord. No. 4, art. IX, § 1.0, 4-1-2009)

Sec. 40-231. - Prosecution.

In the event of a violation or threatened violation of this article, the county may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate the violations or threatened violations. The county attorney shall have authority to commence the civil

action. The county may recover any and all costs, loss, damage, liability or expense incurred, including reasonable attorney's fees, for enforcement of this article through a civil action based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings, brought, or any loss, damage or injury of any type whatsoever sustained, based upon, resulting from, otherwise arising in connection with any actions, claims or proceedings. The corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the county board of commissioners, all costs (including legal and attorney's fees) may be certified to the county auditor; as a special assessment against the real property.

(Ord. No. 4, art. IX, § 2.0, 4-1-2009)

Sec. 40-232. - ATE notification of violation.

In accordance with state law, the department may notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this article.

(Ord. No. 4, art. IX, § 3.0, 4-1-2009)

Sec. 40-233. - Costs and reimbursements.

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 of commissioners. The cost of an enforcement action under this article may be assessed and charged against the real property on which the public health nuisance was located. The county auditor shall extend the cost as assessed and charged on the tax roll against the real property.

(Ord. No. 4, art. IX, § 4.0, 4-1-2009)

Secs. 40-234—40-259. - Reserved.

DIVISION 7. - RECORD KEEPING AND ANNUAL REPORT

Sec. 40-260. - Record keeping.

The county 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 county sorted by licensed installation businesses, and other records relevant to each system.

(Ord. No. 4, art. X, 4-1-2009)

Sec. 40-261. - Annual report.

The department may provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

(Ord. No. 4, art. XI, 4-1-2009)

Secs. 40-262—40-285. - Reserved.

DIVISION 8. - ISTS LOAN PROGRAM

Sec. 40-286. - Purpose.

The ordinance from which this division is derived is adopted to provide for the creation of a public loan program that assists private property owners in the financing of site evaluation, installation, repair or replacement of individual sewage treatment systems. The individual sewage treatment system loan program promotes the public health and welfare by preventing, reducing and eliminating water pollution from individual sewage treatment systems.

(Ord. of 3-20-2007, art. I)

Sec. 40-287. - Authority.

The county establishes an individual sewage treatment system loan program pursuant to the authority granted under M.S.A. ch. 115, and Minn. Admin. Rules ch. 7080, as amended, that pertain to sewage and wastewater treatment and enforcement standards for individual sewage treatment systems.

(Ord. of 3-20-2007, art. II)

Sec. 40-288. - Definitions.

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

Activity and *project* mean a site evaluation, design, installation, repair or replacement of an individual sewage treatment system.

Applicant means an individual or multiple property owners applying for a loan under the individual sewage treatment system loan program.

Improvement means the site evaluation, design, installation, repair or replacement of an individual sewage treatment system.

Individual sewage treatment system or *ISTS* means a sewage treatment system or parts thereof using soil treatment and disposal to treat 5,000 gallons or less of waste water per day or uses an alternative discharging system treating 10,000 gallons per day using treatment methods and disposal other than subsurface soil treatment and disposal.

Loan agreement means an agreement entered into between the county and the applicant. The loan agreement will include, but need not be limited to, general loan provisions, loan management requirements, application of payments, loan term limits and allowable expenses.

Property owner means the owner of record with the office of the county recorder of the property on which the ISTS that is installed, repaired or replaced is located.

(Ord. of 3-20-2007, art. III)

Sec. 40-289. - Administration.

(a) The county sanitarian is designated the loan administrator, responsible for administering the individual sewage treatment system loan program.

(b) The county, acting through the county auditor-treasurer's office is designated as the local lender and is responsible for allocating loan funds. The local lender may contract with other lenders for the limited

purpose of loan review, loan processing and servicing and for determining the eligibility of property owners for individual loans.

(c) All activities or projects under this article shall be performed by a licensed individual sewer treatment system professional and shall comply with the state pollution control agency rules adopted pursuant to M.S.A. § 115.55(3) and other applicable requirements.

(d) Loan funds shall be disbursed to approved property owners in the order in which applications are approved. In considering loan requests, the loan administrator shall consider the age and depth of the ISTS, the proximity of the ISTS to a water well, any pollution potential, and the risks to public health and safety.

(e) Participation in the individual sewage treatment system loan program is voluntary and shall result in a lien on the benefiting property according to the terms set forth in section 40-292. The loan financing terms may be amended by the county board of commissioners.

(f) The property owner has the right to prepay the assessment and the loan.

(g) The office of the county auditor-treasurer shall be responsible for the administration of any liens against the benefiting property.

(Ord. of 3-20-2007, art. IV)

Sec. 40-290. - Application, pre-certification and certification procedures.

(a) The property owner obtains a permit for the project from the county environmental services and completes the pre-certification application.

(b) The landowner contacts any accredited equal credit opportunity lending institution and requests a loan for the sewer system installation. The applicant must receive a loan request denial letter from the lending institution and submit a copy of that letter with this sewer loan application.

(c) The county environmental services department forwards the pre-certification application to the loan administrator for determination of project eligibility.

(d) The property owner obtains and completes the local lender's financial application and any necessary loan documentation for determination of loan eligibility.

(e) Work on the project shall begin promptly after the property owner receives project approval from the loan administrator and loan approval from the local lender. If work on the project is not completed within 180 days, loan funds will not be reserved for the property owner and reapplication will be required. Any activity or project under this article shall be performed by a licensed individual sewer treatment system professional and shall comply with the state pollution control agency rules adopted pursuant to M.S.A. § 115.55(3), and other applicable requirements.

(f) A Minnesota Pollution Control Agency (MPCA) licensed subsurface sewage treatment system (SSTS) inspector from the county environmental services department shall inspect the project and certify that the project complies with all applicable requirements and shall promptly forward copies of the project certification to the local lender and the loan administrator.

(g) Upon receiving project certification from the county environmental services department, the county auditor-treasurer shall distribute the funds payable to the property owner and the licensed individual sewer treatment system professional.

(h) The county auditor-treasurer's office shall notify the property owner in a form that meets the notice requirements of M.S.A. § 115.57(6) and which sets forth the amount of assessment against the property.

(i) The county auditor-treasurer office shall complete a tabular lien statement and send it to the county recorder's office to place this lien on record.

(j) After the final loan payment is received by the county, the county auditor-treasurer office will direct the landowner to the county recorder's office to sign the satisfaction of lien document and pay the respective recording fee.

(Ord. of 3-20-2007, art. V)

State Law reference— Subsurface sewage treatment system or water well loan program, M.S.A. § 115.57.

Sec. 40-291. - Eligibility.

(a) *Eligible activities.* The following activities are eligible for the program established in this article:

(1) Repair or replacement on an existing individual sewage treatment system (ISTS) that does not conform to the provisions of Minn. Admin. Rules ch. 7080, 7081, 7082, or 7083.

(2) Relocation of ISTS out of environmentally sensitive areas.

(3) Replacement of a subsurface sewage treatment system that is failing to protect groundwater, an imminent threat to public health and safety, or nonconforming as defined by a compliance inspection.

(4) Expansion or upgrading of a conforming ISTS due to construction of additional living quarters or expanded use as defined by a compliance inspection.

(b) *Ineligible activities.* The following activities are not eligible for the program established in this article:

(1) Individual sewage treatment systems in excess of flow rates as listed in section 40-288.

(2) New connections or repairing old connections to collection systems or municipal waste treatment systems.

(3) Installation of ISTS for any new dwelling construction.

(4) Costs that were incurred before the effective date or after the termination date of the loan agreement with the applicant or before approval from the county of the project.

(Ord. of 3-20-2007, art. VI)

Sec. 40-292. - Loan financing terms.

(a) *Loan eligibility.* The applicant must be the fee owner of a parcel of land where the sewer system is to be located. The activity or project must be conducted on property located in the county.

(b) *Terms of the loan.* The amount of the loan is limited to no more than the total cost of the activity or project. The total amount of all assessments/liens/loans against this property shall not exceed the assessed estimated market value of the property as shown in the county assessor's records. The loan amount, including accruing interest, shall be a lien against the real property for which the improvement was made and shall be assessed against the property unless the amount is prepaid. The interest rate on the loan is six percent as of June 1, 2011, and may be adjusted annually for new loans. Interest shall accrue beginning the date the local lender distributes the funds to the property owner. Loan terms may not exceed a maximum time period of 15 years. The county environmental services department shall collect a septic system permit processing fee as provided in the county fee schedule.

(c) *Repayment.* The individual sewage treatment system program shall be a revolving loan program. Repayment of individual loans shall not extend more than 15 years from the date of the loan agreement. The loan shall be paid in full prior to the transfer of the property.

(d) *Maintenance.* The property owner is required to have the septic tank and pump tank pumped by a MPCA-licensed septic tank pumper at a three-year interval for the life of the loan.

(Ord. of 3-20-2007, art. VII)

Chapter 42 - ZONING

ARTICLE I. - IN GENERAL

Sec. 42-1. - Statutory authority.

Pursuant to the authority conferred by M.S.A. §§ 394.21 through 394.37, the ordinance from which this chapter is derived is adopted for the following purposes: promoting and protecting the public health, safety and general welfare of the inhabitants of the county by protecting and conserving the character and social and economic stability of the agricultural, residential, commercial, industrial and other use areas; by securing the most appropriate use of the land; by preventing the overcrowding of the land and undue congestion of population; by providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water supply and sewage disposal, schools, recreation and other public requirements.

(Ord. No. 15, art. 1, § 2, 1-19-2010)

Sec. 42-2. - Jurisdiction.

The jurisdiction of this chapter shall apply to all the area of the county outside the incorporated limits of municipalities.

(Ord. No. 15, art. 1, § 3, 1-19-2010)

Sec. 42-3. - Scope.

From and after the effective date of the ordinance from which this chapter is derived, the use of all land and every building or portion of a building erected, altered in respect to height and area, added to or relocated, and every use within a building or use accessory thereto in the county shall be in conformity with the provisions of this chapter. Any existing building or structure and any existing use of properties not in conformity with the regulations may be continued, extended or changed, subject to the special regulations herein provided with respect to nonconforming properties or uses.

(Ord. No. 15, art. 1, § 4, 1-19-2010)

Sec. 42-4. - Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of public health, safety, comfort, convenience and general welfare. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance or regulation shall be controlling.

(Ord. No. 15, art. 1, § 5, 1-19-2010)

Sec. 42-5. - Required fees; exemptions.

(a) The fees for a land use permit, rezoning, variance, amendment or conditional use permit shall be established by the board. The board may review and revise the fee schedule periodically. The zoning administrator shall issue the building permit only after the fee has been paid and a determination has been made that the building plans, together with the application, comply with the terms of this chapter. Any person filing a petition for an amendment to this chapter requesting a variance or a change in regulations within any use district shall pay the prescribed fees according to the schedule established by the board before any work proposed may commence. The fee is payable at the time of filing a petition and is not refundable.

(b) Municipal corporation and governmental agencies shall be exempt from the fee requirements as prescribed by this chapter.

(Ord. No. 15, art. 27, §§ 1, 2, 1-19-2010)

Sec. 42-6. - Rules.

For the purposes of this chapter, certain terms or words used herein shall be interpreted as follows:

(1) Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words "must" and "shall" are mandatory, and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

(2) The words "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

(3) All stated and measured distances shall be taken to the nearest integral foot. If a fraction is one-half foot or less, the integral foot next below shall be taken.

(Ord. No. 15, art. 2, § 1, 1-19-2010)

Sec. 42-7. - Definitions.

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

Accessory building means a subordinate building or structure on the same lot, or part of the main building, occupied by or devoted exclusively to an accessory use.

Accessory use means a use naturally and normally incidental to, subordinate to, and auxiliary to the permitted use of the premises.

Agriculture means the cultivation of soil, including the harvesting of crops, the production of plants and animals useful to man, including, in a variable degree, the preparation of these products for man's use; farming, horticulture and forestry.

Alley means any dedicated public way providing a secondary means of ingress or egress to land or structures thereon.

Basement means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Bluff.

(1) The term "bluff" means a topographic feature, such as a hill, cliff, or embankment, having all of the following characteristics:

a. Part or all of the feature is located in a shoreland area;

b. The slope rises at least 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 25 feet or more above the ordinary high water level averages 30 percent or greater; and

d. The slope must drain toward the water body.

(2) An area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff.

Bluff impact zone means a bluff and land located within 20 feet from the top of a bluff.

Board of adjustment means a quasi-judicial body whose responsibility it is to hear appeals from decisions of the planning and zoning administrator and to consider requests for variances permissible under the terms of this chapter.

Boardinghouse or *roominghouse* means any dwelling occupied in any manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit are leased or rented to persons outside of the family, without any attempt to provide therein cooking or kitchen accommodations.

Boathouse means a structure designed and used solely for the storage of boats or boating equipment.

Buildable lot area means the contiguous area of a lot that is sufficient in area to accommodate the construction of water supply systems, sewage treatment systems, buildings and driveways, while still providing the required setbacks. Areas that are floodways, required setbacks, wetlands, rights-of-way, or bluffs cannot be included in calculating the buildable lot area.

Building means any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of any person, animal, chattel or property of any kind. When any portion thereof is completely separated from every other part thereof by dividing walls from the ground up, and without openings, each portion of the building shall be deemed a separate building.

Building, principal, means a building or structure in which is conducted the main or principal use of the lot on which the building or structure is situated.

Building height means the vertical distance measured from the ground level adjoining the building to the highest point of the roof surface if a flat roof, to the deck line of mansard roofs, and to the main height level between eaves and ridge of gable, hip and gambrel roofs.

Building line means the front line of the building or the legally established line which determines the location of the building with respect to the street line.

Carport means a structure permanently attached to a dwelling having a roof supported by columns, but not otherwise enclosed.

Club projects means any animal raised as a 4-H, FFA, or similar project for education in the care and handling of livestock which requires registration with a local organization.

Commercial planned unit developments typically refers to uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel or motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

Commercial use means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods and services.

Community building means any structure intended for use as educational, recreational, social, service or governmental purposes by the general public.

Conditional use means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon finding that certain conditions as detailed

in this chapter exist and the structure or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Conditional use permit means a permit issued by the county board in accordance with procedures specified in this chapter which would enable the board to assign dimensions to a proposed use or conditions surrounding it.

Deck means a horizontal, unenclosed platform, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

Development means any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling.

Drainage system means a system of ditch or tile, or both, to drain property, including laterals, improvements, and improvements of outlets, established and constructed by a drainage authority, including the improvement of a natural waterway used in the construction of a drainage system and any part of a flood control plan proposed by the United States or its agencies in the drainage system.

Duplex, triplex , and *quadriplex* means a dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling means two or more rooms within a structure that are arranged, designed or used as living quarters for one family only. Individual bathrooms and complete kitchen facilities permanently installed shall be included for each dwelling. A manufactured home with the above accommodations located in areas approved for manufactured homes shall be considered a dwelling unit. A manufactured home, camper trailer, camper bus, recreational vehicle or tent are not considered dwelling units. Garage space, whether in an attached or detached garage, shall not be deemed a part of a dwelling.

Dwelling, farm, means a dwelling located on a farm which the residents of the dwelling own, operate or are employed thereon.

Dwelling, multiple , means a building used or intended to be used as a dwelling by three or more families.

Dwelling, non-farm, means a dwelling located on a parcel of land contiguous to or surrounded by farmland that is under separate ownership and which the resident of the dwelling neither operates nor is employed thereon.

Dwelling, single-family , means a dwelling occupied by only one family, and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for one family only, together with the domestic help as may be necessary to service and maintain the premises and their occupants.

Dwelling, townhouse, means a single-family dwelling unit constructed in a group of two or more attached units in which each unit extends from the foundation to the roof and having open space on at least two sides of each unit. Each single-family dwelling unit shall be considered to be a separate building.

Dwelling, two-family , means a dwelling so designed and arranged to provide cooking and kitchen accommodations and sanitary facilities for occupancy by two families.

Dwelling site means a designated location for residential use.

EAW means environmental assessment worksheet.

EIS means environmental impact statement.

Equal degree of encroachment means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Erected includes built, constructed, reconstructed, moved upon, or any physical operation on the premises required for the building; excavation, fill, drainage and the like shall be considered a part of erection.

Essential service means any surface, overhead or underground electric, gas transportation, hydrocarbon, steam, water, communication, refuse transmission, distribution, or collection system operated by any utility company or governmental agency.

Major essential service facilities. Any essential service line or structure providing transmission services, i.e., utility service, such as high voltage (greater than 35 KV) electrical power, communication, or bulk gas or fuel being transferred from station to station and not intended only for en route consumption, shall require a conditional use permit as regulated in article VIII of this chapter in addition to being governed by the procedures described herein.

Minor essential service facilities. Any essential service line or structure located within any county easement or county right-of-way and providing single service distribution lines, i.e., single service electrical distribution lines (less than 35 KV) or other single service distribution lines (communication or gas), shall not require a conditional use permit; however, such service facilities shall be governed by the procedures described herein. Single service distribution lines are the individual lines serving a single residence or building site. For the purposes of a conditional use permit, multiple single service line replacements or installation projects are considered to be minor essential services if contained within four or less contiguous land sections.

Essential service line means any primary or subsidiary conductor designed or utilized for the provision or maintenance of essential services, including any pole, wire, drain, main, sewer, pipe, conduit, cable, fire hydrant, fire alarm box, police call box or right-of-way, but not including any structure.

Essential service structure means any appurtenant structure required to be on line to accommodate the proper provision or maintenance of essential services, including any electric substation, water tower, sewage lift station, or other similar facility.

Extractive use means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under M.S.A. §§ 93.44 to 93.51.

Family means any number of persons living together in rooms comprising of a single housekeeping unit and related by blood, marriage, adoption, or any unrelated person who resides therein as though a member of the family, including the domestic employees thereof. Any group of persons not so related but inhabiting a single house shall be considered to constitute one family for each five persons, exclusive of domestic employees, contained in each such group.

Farm means a parcel of land used exclusively for agricultural purposes.

Farmyard means the area of a farm immediately around the farm residence where accessory buildings are located and are being used exclusively for agricultural operations.

Feedlot means 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 animal feedlots under these rules. Other definitions relating to feedlots as regulated in this chapter are found in state pollution control agency's rules for the control of pollution from animal feedlots. These rules are adopted by reference in this chapter.

Flood means a temporary increase in the flow or stage of a stream or in the stage of a lake that results in the inundation of normally dry areas.

Flood frequency means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood fringe means that portion of the floodplain outside of the floodway. The term "flood fringe" is synonymous with the term "flood-fringe," used in the flood insurance study for the county.

Floodplain means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Floodproofing means the combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily from the reduction or elimination of flood damages.

Floodway means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain that are reasonably required to carry or store the regional flood discharge.

Floor area, ground , means the area within the exterior walls of the main building or structure as measured from the outside walls at the ground floor level, not including garages, or enclosed or unenclosed porches, and not including attached utility or accessory rooms having three or more exterior sides.

Forest land conversion means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Garage, private , means an accessory building designed or used for the storage of not more than three motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

Gasoline service station means a building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of the commodities on or in the vehicles, but not including special facilities for the painting, repair, or similar servicing thereof.

Greenbelt means a planting strip composed of large fast-growing deciduous shrubs with a minimum mature height of ten feet spaced not more than four feet apart, the minimum height at the time of planting shall be 24 inches and of a hedging grade; or a row of American dark green white cedar spaced not more than eight feet apart, the minimum height at the time of planting shall be 36 inches and shall be potted or balled and burlaped; or one row of tall deciduous trees spaced not more than 15 feet apart, the minimum height at the time of planting shall be four to five feet. The term "multi-row greenbelt" means a combination of the planting strips forming a greenbelt as determined by the planning commission.

Guest cottage means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling on a lot.

Hardship means the same as that term is defined in M.S.A. ch. 394.

Historical dwelling site means a building site on which a residential dwelling was or is in existence on April 20, 1982, or after.

Home occupation means any gainful occupation or profession engaged in by an occupant that is clearly secondary to the principal use of the premises and which does not change the character thereof or have any exterior evidence of the secondary use.

Industrial use means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Intensive vegetative clearing means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Interim use means a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it as allowed by M.S.A. 394.303.

Junkyard means a place maintained for keeping, storing, or piling in commercial quantities, whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used, or secondhand material of any kind, including used motor vehicles, machinery of any kind, and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron or other metals, or articles which from its worn condition render it such that there is no substantial potential further use consistent with its usual, original function or reasonable reuse. This shall include a lot or yard for the keeping of unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment. Provided further that the storage of three or more inoperative and/or unlicensed motor vehicles or trailers for period in excess of two months shall also be considered a junkyard.

Kennel means any lot or premises on which three or more dogs are kept, either permanently or temporarily boarded.

Livestock means any beef or dairy cattle, swine, sheep, horses and ponies.

Lot means a parcel of land occupied or to be occupied by a principal structure or group of structures and accessory structures, together with the yards, open spaces, lot width and lot area as are required by

this chapter, and having the required frontage upon the street, either shown and identified by lot number on a plat of record or considered as a unit of property and described by metes and bounds.

Lot area means the area of a lot on a horizontal plane bounded by the lot lines.

Lot area, buildable , means that portion of the lot remaining after the deletion of any floodplain, road rights-of-way, wetlands or slopes of 12 percent or greater; conversely, a lot capable of meeting the requirements of this chapter, including the provision of adequate area for the installation and maintenance of on-site sewer and water facilities.

Lot, corner , means a lot located at the intersection of two streets, having two adjacent sides abutting streets; the interior angles of the intersection do not exceed 135 degrees.

Lot coverage means the part or percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

Lot depth means the perpendicular distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot frontage means that portion of the lot boundary having the least width abutting on the street right-of-way.

Lot lines means the lines bounding a lot.

Lot of record means a lot that is part of a subdivision, the map of which has been recorded in the office of the county recorder, or a lot described my metes and bounds, the deed to which has been recorded in the office of the county recorder.

Lot width means the horizontal distance between the side lot lines, measured at the two points where the building line or setback intersects the side lot lines. The shortest distance between lot lines measured at the midpoint of the building line.

Manufactured home means a structure, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term "manufactured home" includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification and complies with M.S.A. §§ 327.31 to 327.35.

Manufactured home park means any lot or tract of land upon which two or more occupied trailer coaches or manufactured homes are harbored either with or without charge, and including any building or enclosure intended for use as a part of the equipment of the park.

Migratory labor camp means temporary facilities provided by the employer on his own land for the housing of workers who, for seasonal purposes, are employed in the planting, harvesting or processing of crops.

Motorized vehicle means any self-propelled vehicle for the transportation or persons, including, but not limited to, automobiles, motorcycles, trail bikes, go-carts, snowmobiles, and all-terrain vehicles.

Nonconforming use means a use lawfully in existence on the effective date of the ordinance from which this chapter is derived and not conforming to the regulations for the district in which it is situated.

Nonconformity means the same as that term is defined in M.S.A. ch. 394, and 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 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.

Obstruction means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain that may impede, retard

or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water.

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

Owner means any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the land.

Parking space means an area of not less than 200 square feet, exclusive of drives or aisles giving access thereto, accessible from streets or alleys or private drives or aisles leading to streets or alleys, and to be usable for the storage or parking of motor vehicles.

Permitted use means a public or private use which of itself conforms to the purposes, objectives, requirements, regulations and performance standards of a particular district.

Planned unit development means a type of development characterized by a unified site design for a number of dwelling units or dwelling 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, timeshare condominiums, cooperatives, full fee ownerships, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Planning and zoning administrator means the persons employed by the board of county commissioners to enforce the provisions of this chapter.

Planning commission means the duly appointed planning and zoning advisory commission of the county board.

Principal use or structure means all uses or structures that are not accessory uses or structures.

Public water means any waters as defined in Minn. Admin. Rules §§ 103g.005(15) and (15a); provided, however, no lake, pond, or flowage of less than ten acres in size in municipalities and 25 acres in size in unincorporated areas need be regulated for the purposes of Minn. Admin. Rules §§ 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland may, at the discretion of the county, be exempted from application of Minn. Admin. Rules §§ 6120.2500 to 6120.3900.

Reach means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Regional flood means a flood that is representative of large floods known to have occurred generally in state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. The term "regional flood" is synonymous with the term "base flood" used in the flood insurance study.

Regulatory flood protection level means an elevation not less than one foot above the elevation of the regional flood plus any increase in flood elevation contributable to encroachment on the floodplain that results from designation of a floodway. It is the elevation to which uses regulated by this chapter are required to be elevated or floodproofed.

Residential planned unit development means a use where the nature of residency is non-transient and the major or primary focus of the development is not service oriented. For example, residential apartments, manufactured home parks, timeshare condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.

Riparian means land contiguous to the bank of a stream, the shore of a lake, or the edge of a wetland.

Semi-public use means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

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

Setback means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, drainage system, property line or other facility.

Sewage treatment system means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Minn. Admin. Rules ch. 7080 and of this chapter.

Sewer system means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Shore impact zone means land located between the ordinary high water level of a public water line and a line parallel to it at a setback of 50 percent of the structure setback.

Shoreland means land located 1,000 feet from the normal high water mark of a public lake, pond, or flowage; or 300 feet from a river or stream or the landward extension of a floodplain on the river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides that may extend landward from the waters for lesser distances and when approved by the commissioner of the state department of natural resources and the county commissioners.

Shoreland setback means the minimum horizontal distance between a structure and the normal high water mark.

Sign means the use of any words, numerals, pictures, figures, devices, or trademarks by which anything is made known, such as are used to show an individual, firm, profession, or business and are visible to the general public. The term "sign" includes the following sign types:

Advertising (off-premises sign) means a billboard, poster panel, painted bulletin board, or other communicative device that is used to advertise products, goods, or services that are not exclusively related to the premises on which the sign is located.

Business sign means any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used as the identification or promotion of any principal commodity of service, including entertainment, offered or sold upon the premises where the sign is located.

Construction sign means a sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier, or other involved parties.

Directional sign means a sign erected on public or private property which bears the address and name of a business, institution, church, or other use or activity, plus directional arrows or information on location.

Directory sign means a wall sign which identifies the business, owner, manager, or resident occupant and sets forth the occupation or other address information but contains no advertising.

Freestanding sign means any stationary or portable, self-supported sign not affixed to any other structure.

Government sign means a sign that is erected by a governmental unit.

Illuminated sign means any sign that is lighted by an artificial light source either directed upon it or illuminated from an interior source.

Institutional sign means a sign or bulletin board which identifies a name or other characteristics of a public or private institution on the site where the sign is located.

Integral sign means a sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like, carved into stone, concrete or similar material made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.

Nameplate sign means a sign indicating the name and address of a building or the name of an occupant thereof and the practice of a permitted occupation therein.

Real estate sign means a business sign placed upon a property advertising that particular property for sale, or for rent or lease.

Sign area means the entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. The term "sign area" does not include any structural elements outside the limits of the sign and not forming an integral part of the display. Only one side of a double face sign structure shall be used in computing the total surface area.

Significant historic site means any archaeological site, standing structure, or other property which 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 which falls under the provisions of M.S.A. § 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 state archaeologist or the director of the state historical society. All unplatted cemeteries are automatically considered to be significant historic sites.

Solid waste operation means any solid waste operation, such as a demolition landfill, mixed municipal solid waste landfill, transfer station, yard waste compost, mixed municipal solid waste compost, incinerator, or transportation or collection of any mixed municipal solid waste and the support facilities used to accept, store, sort, transfer or process any mixed municipal solid waste.

SSTS means subsurface sewage treatment systems.

Stable or barn, private, means a building or structure for the housing of livestock owned or whose care is the primary responsibility of the immediate occupants of the lot.

Stable or barn, public, means a building, other than a private barn or stable, in which livestock is housed or raised commercially, or a barn or stable that is not in conjunction with a dwelling or whose care is not the primary responsibility of the immediate occupants of the lot.

Steep slope means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Street means any thoroughfare or way other than a public alley, dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court or any other similar designation, or a private street open to restricted travel, at least 30 feet in width.

Structural alteration means any changes in the supporting members of a building, such as bearing walls, columns, beams or girders or any substantial change in the roof and exterior walls.

Structure means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers or vehicles not meeting the exemption criteria specified in this chapter and other similar items, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subdivision means land that is divided for the purpose of sale, rent, or lease, including planned unit development.

Surface water - oriented commercial use means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of the use.

TDR means transfer of development rights.

Toe of the bluff means the point of 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 50-foot segment, measured on the ground, with the average slope exceeding 18 percent.

Top of the bluff means the point on a bluff where there is, visually observed, a clearly identifiable break in the slope, from a steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, with an average slope exceeding 18 percent.

Tourist camp site means a planned development to accommodate vehicular portable structures designed as temporary, short-term dwellings for travel, recreational and vacation use.

Tourist home means any dwelling occupied in such a manner that certain rooms in excess of those used by members of the family, as herein provided, and occupied as a home or family unit, are rented without cooking facilities, to the public for compensation and catering primarily to the traveling public.

Use means the purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used, or for which they are occupied or maintained.

Variance means a modification of a specific permitted development standard required in an official control, including this chapter, to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstances as defined and elaborated upon in a community's respective planning and zoning enabling legislation. The term "variance" shall also have the same meaning as provided in M.S.A. ch. 394.

Water-oriented accessory structure or facility means a small, aboveground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of the structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Wetland means a surface water feature classified as a wetland by U.S. Fish and Wildlife.

Wind turbine means a turbine operated by the winds rotation of a large rotor used to generate electricity.

Yard means an open space at the grade line between a building and the adjoining lot lines, unoccupied and unobstructed from the ground upward. Yard measurements shall be the minimum horizontal distance between a lot line and the nearest line of the principal building.

Yard, front , means a yard extending across the full width of the lot between the front line and the nearest line of the principal building. Front line shall be the line bordering the nearest public or private road. In the event the lot is on an intersection, the property shall have two front yards.

Yard, rear, means a yard extending across the full width of the lot between the rear lot line and the nearest line of the principal building.

Yard , side, means a yard extending from the front yard to the rear yard between the side lot line and the nearest line of the principal building.

Zoning district means the sections of the county for which the regulations governing the height, area, use of buildings, and premises are the same as delineated by this chapter.

Zoning map means the areas comprising these zoning districts and boundaries of the districts as shown upon the map attached to the ordinance from which this chapter is derived and made a part of this chapter, being designated as the county official zoning map, with all proper notations, references and other information shown thereon.

(Res. No. 95-125, § 1, 12-5-1995; Res. No. 96-39, § 1, 4-1-1996; Ord. No. 15, art. 2, § 2, 1-19-2010; Res. No. 12-046, 2-21-2012; Ord. No. 15.101, 5-6-2014; Ord. No. 2016-01, 8-16-2016)

Secs. 42-8—42-50. - Reserved.

ARTICLE II. - ZONING DISTRICTS

DIVISION 1. - GENERALLY

Sec. 42-51. - Established.

In order to regulate the use of land, to regulate and restrict the location of buildings and structures erected or altered for specified uses, to regulate and limit the height, bulk and size of buildings hereafter erected or altered, to regulate and determine the area of yards, courts and other open spaces surrounding buildings hereafter placed or altered, and to regulate the density of population, the unincorporated area of the county, is hereby divided into the following districts which shall be known by the following respective symbols and names:

(1) "FP" Floodplain District.

(2) "A" Agricultural District.

(3) "RH" Country Homes District.

(4) "R-1" Rural Residence District.

(5) "R-2" Suburban Residence District.

(6) "UR" Urban Rural Fringe District.

(7) "B-1" General Business District.

(8) "B-2" Highway Business District.

(9) "I" Industry District.

(10) "I-1" Industry District.

(11) "I-2" Industry District.

(12) "PD" Planned Development District.

(13) "U" Urban Expansion District.

(14) "U-1" Urban Expansion District 1.

(15) "U-2" Urban Commercial Expansion District.

(16) "U-3" Urban Expansion District 3.

(Ord. No. 15, art. 3, § 1, 1-19-2010; Res. No. 13-085, 3-5-2013)

Sec. 42-52. - Zoning map.

The areas comprising these zoning districts and the boundaries of said districts as shown upon the map on file in the office of the county clerk, and made a part of this article, being designated as the county official zoning map, with all proper notations, references and other information shown thereon.

(Ord. No. 15, art. 3, § 2, 1-19-2010)

Sec. 42-53. - District boundaries.

The boundaries of zoning districts, as shown on the county official zoning map made a part of this article, unless otherwise shown, are the centerline of streets, alleys or the subdividing or boundary lines of recorded plats or the extension thereof, railroad rights-of-way lines, and the corporate limits of cities within the county.

(Ord. No. 15, art. 3, § 3, 1-19-2010)

Sec. 42-54. - Zoning boundary interpretation.

Appeals from the commissioners or any administrative officer's determination of the exact location of district boundary lines shall be heard by the board of adjustment in accordance with the provisions of article XI of this chapter.

(Ord. No. 15, art. 3, § 4, 1-19-2010)

Sec. 42-55. - Permitted uses.

No structures, building or tract of land shall be devoted to any use other than a permitted use in the zoning district in which such structure or tract of land shall be located, with the following exceptions:

(1) Conditional uses allowed in accordance with the provisions of article VIII of this chapter.

(2) Any structure which will, under this article, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of the ordinance from which this article is derived and continues to completion within one year after the effective date of the article, shall be a nonconforming structure.

(3) Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.

(Ord. No. 15, art. 3, § 5, 1-19-2010)

Sec. 42-56. - Uses not provided for in zoning district.

Whenever, in any zoning district, a use is neither specifically permitted or denied, the use shall be considered prohibited. In such case, the board or the planning commission, on their own initiative or upon request of a property owner, may conduct a study or determine if the use is acceptable and, if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The county board or planning commission, upon receipt of the study, shall, if appropriate, initiate an amendment to this chapter to provide for the particular use under consideration or shall find that the use is not compatible for development within the county.

(Ord. No. 15, art. 3, § 6, 1-19-2010)

Sec. 42-57. - Future detachment.

Any land detached from an incorporated municipality and placed under the jurisdiction of this article in the future shall be placed in the "A" Agricultural District until placed in another district by action of the board of county commissioners after recommendation of the county planning commission.

(Ord. No. 15, art. 3, § 7, 1-19-2010)

Sec. 42-58. - Purpose of regulations.

The guiding of land development into a compatible relationship of uses depends upon the maintenance of certain standards. In the various use districts, the permitted, accessory and conditional uses shall conform to the standards enumerated in this article.

(Ord. No. 15, art. 4, § 1, 1-19-2010)

Sec. 42-59. - Building regulations.

(a) A zoning permit shall be required to be issued for any buildings and structures in unincorporated Freeborn County. Exceptions include:

  (1) Fences under six feet in height in the "A" Agricultural District.

  (2) Any building or structure that requires a state building code permit.

(b) No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered to:

  (1) Exceed the height or bulk herein established for the district in which the building is located;

  (2) Intrude upon the area required for the front, side and rear yards as herein established and such yard space shall not serve as required yard area for more than one building.

(c) Principal dwelling units in the "A" Agricultural District, "R-H" Country Homes District, "R-1" Rural Residence District, and "R-2" Suburban Residence District shall comply with the following limiting factors:

  (1) The minimum dwelling width shall be 22 feet. Manufactured homes assembled at a factory shall comply with minimum width requirements and shall bear a Federal Manufactured Home Seal before placement.

  (2) All dwellings shall be anchored on a continuous perimeter foundation extending no less than 42 inches below grade.

  (3) All dwelling units shall have a minimum of 720 square feet of floor area.

(Ord. No. 15, art. 4, § 2, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-60. - Lot area requirements.

No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed herein, nor shall the density of population be increased in any manner except in conformity with the area regulations herein prescribed, nor shall the area of any lot be reduced below the minimum requirement herein established.

(Ord. No. 15, art. 4, § 3, 1-19-2010)

Sec. 42-61. - Temporary dwellings.

It shall not be lawful for any person to erect or occupy a temporary dwelling on any lot; provided, however, that a garage may be occupied as a temporary dwelling for a period of not more than six months if construction of a permanent dwelling is actually underway and in active progress during occupancy of the garage. Said garage shall be provided and equipped with garage doors. In the event that any person shall

reside in any such temporary garage home for a period exceeding six months, the county may proceed to have such extended use abated as a nuisance.

(Ord. No. 15, art. 4, § 4, 1-19-2010)

Sec. 42-62. - Temporary manufactured home or trailer use.

It shall be unlawful, within the limits of the county, for any person to park overnight, or permit overnight parking, of any manufactured home, trailer coach or camping trailer on any public road. No occupied manufactured home, trailer coach or camping trailer shall be parked on any land within the county, not specifically licensed for the purpose, except that nothing herein contained shall prohibit the parking for not more than one occupied manufactured home or trailer coach, as a visitor, on the premises of any occupied dwelling, provided that the owner or occupant of such manufactured home or trailer coach, within ten days after arrival, shall make application to the planning and zoning administrator for a temporary permit, which permit shall limit the time of such parking to a period of 30 days from date of application, and said permit is not transferable.

(Ord. No. 15, art. 4, § 5, 1-19-2010)

Sec. 42-63. - Buildings to be moved.

Manufactured buildings utilizing prefabricated construction which are certified by the state for compliance with the state building code or manufactured homes which are certified by the department of housing and urban development for compliance with the Federal Manufactured Home Construction and Safety Standards shall be exempt from the following requirements, provided each building or component bear a permanently affixed certification label:

(1) Any permanent building in any RH, R-1 or R-2 district or any dwelling in the A or UR district either wholly or partially erected shall not be moved to and placed upon any premises in any zoning district when such building is not of a type permitted in that district or does not substantially conform with the general outward appearance and structural design of buildings on adjoining properties. No building shall be moved to a location, unless such building shall substantially conform to the requirements of the state building code or unless adequate bond or cash deposit is given to the county to ensure reconstruction of the building to substantial conformity with said building code and with buildings in the area in which it is to be moved.

(2) Complete plans for a building to be relocated shall be submitted and filed with the planning and zoning administrator prior to the issuance of any permit and said building shall conform to the submitted plans upon completion. All applications shall designate the site from which the building is to be removed, and the site to which the building is to be moved.

(3) No building within the RH, R-1 or R-2 districts shall be moved without first obtaining a conditional use permit in accordance with the requirements of article VIII of this chapter. If a permit is granted, the amount of cash deposit or bond and the length of time for completion of work will be determined by the planning advisory commission.

(4) When the building to be moved is located within the unincorporated area of the county, a cash deposit or bond of not less than $10.00 or more than $500.00, as determined by the planning advisory commission, shall be deposited with the county auditor prior to the issuance of a building permit for the moving and repair of the building. Such deposit shall guarantee the removal of all debris, the filling of the basement or any other excavation and leveling of the vacated premises and for all damages or expenses incurred by the county as a result of the moving operations. The making of such cash deposit shall not prevent the county from collection of further damages in excess of the amount deposited in the event further damages are sustained. Any cash deposit not actually used shall be returned to the person depositing it, after the work has been satisfactorily completed and the county auditor has been so notified.

(Ord. No. 15, art. 4, § 6, 1-19-2010)

Sec. 42-64. - Accessory buildings.

(a) *Attached in agricultural, urban rural fringe and residential districts.*

(1) Any accessory building in any agricultural, urban rural fringe, or residential district, including carports attached to the principal building, shall be made structurally a part thereof and shall comply in all respects with the requirements of this article applicable to the principal building.

(2) Breezeways, for the purpose of this article, as an attachment between the garage or carport and the principal building shall be considered a part of the principal building.

(b) *Detached in agricultural, urban rural fringe and residential districts.*

(1) Any accessory building or structure in any residential district shall not be allowed in any front yard. Accessory buildings may be allowed in an agricultural district as per subsection (b)(6) of this section. Accessory buildings may be allowed in an R-1, R-2, or RH district as per subsection (b)(7) of this section.

(2) Any detached accessory building or structure located in side and rear yards and within ten feet of the rear wall of the principal building shall comply with all yard requirements applicable to the principal building in the district. Where any accessory building or structure is to be located in rear yards greater than ten feet distant from the rear wall of the principal building, it shall not be located nearer than five feet from the side and rear lot line.

(3) A detached accessory building or structure on a corner lot shall not project beyond the front yard setback requirements of the principal building. Exceptions are noted in subsection (b)(7) of this section.

(4) Any detached accessory building in an R-1 or R-2 district with a conforming lot size of less than two acres shall not exceed one story or 16 feet in mean height and shall not occupy more than 1,500 square feet for any single-family building, and the total area for all accessory buildings shall not exceed 2,000 square feet. Any detached accessory building in an R-1 or R-2 district with a conforming lot size over two acres shall be allowed up to 3,000 square feet total accessory building area and an individual accessory building shall not exceed 2,000 square feet.

(5) Any detached accessory building in an RH district shall not exceed 17 feet in mean height and shall not occupy more than 2,000 square feet for any single building and the total area for all accessory buildings shall not exceed 3,500 square feet.

(6) Any detached building in an agricultural zone may be located in the front yard, provided that:

a. Such building shall meet all applicable setbacks.

b. Such building shall be located a minimum of 300 feet from any residence on adjacent properties.

(7) In R-1, R-2, and RH lots with more than one front yard, one detached accessory building may be allowed in a secondary front yard with the following requirements:

a. Primary front yard shall be identified by the dominant road serving the lot. The other front yards shall be considered secondary.

b. Secondary front yard structure shall be limited to one structure not more than 800 square feet; shall meet all other existing ordinance requirements; and shall match color and design of residence.

c. A prohibited sight triangle shall be measured beginning from the corner of the residence at the front yards intersection, thence to the secondary yard right-of-way line, thence the same dimension along the secondary yard right-of-way, thence back to the point of beginning.

(c) *Accessory buildings and uses in business and industrial districts.* In any business or industrial district, any accessory building or use may occupy any of the ground area which the principal building is permitted to occupy. Accessory buildings, such as buildings for parking attendants, guard shelters, gate houses and transformer buildings, may be located in the front or side yard in industrial districts. Parking of automobiles and other motor vehicles is permitted in the front and side yards in industrial districts if screened by a greenbelt eight feet in width.

(Ord. No. 15, art. 4, § 7, 1-19-2010; Res. No. 12-167, 7-17-2012; Res. No. 13-057, 3-19-2013)

Sec. 42-65. - Building grades.

Any building requiring yard space shall be located at such an elevation that a sloping grade of not less than one percent shall be maintained to cause the flow of surface water to run away from the walls of the building. Grades shall be approved by the planning and zoning administrator.

(Ord. No. 15, art. 4, § 8, 1-19-2010)

Sec. 42-66. - Assembly buildings.

(a) On a lot occupied by a church or other building in which persons congregate, or which is designed, arranged, remodeled, or normally used for the congregation of persons in numbers in excess of 25, the width of each side or rear yard shall be not less than 25 feet.

(b) This section shall take precedence over other regulations in this article as to width of side or rear yards, insofar as it applies to churches or other public or semi-public buildings in which persons normally congregate in numbers in excess of 25.

(Ord. No. 15, art. 4, § 9, 1-19-2010)

Sec. 42-67. - Sanitary provisions.

All sewage facilities shall be connected to sewers when available. Where sewers are not constructed or in operation all sewage facilities shall be connected to approved septic tanks and disposal fields. This provision shall not apply to temporary construction sites, or portable units used in farming operations.

(Ord. No. 15, art. 4, § 10, 1-19-2010)

Sec. 42-68. - Access to public roads.

Hereafter all access provisions to public roads shall be approved by the highway engineer or road authority having jurisdiction over said road, and the planning and zoning administrator.

(Ord. No. 15, art. 4, § 11, 1-19-2010)

Sec. 42-69. - Dumping and disposal of rubbish.

(a) The use of land for the dumping, disposal, or storage of demolition debris or construction materials is not permitted in any district unless the appropriate permits have been granted in accordance with the provision of article VIII of this chapter.

(b) The dumping of dirt, sand, rock or other material excavated from the earth is permitted in any district, provided the surface of such material is graded within a reasonable period of time, in a manner

preventing the collection of stagnant water and which leaves the ground surface condition suitable for growing of turf or for other land uses permitted in the district.

(Res. No. 95-125, § 2, 12-5-1995; Ord. No. 15, art. 4, § 12, 1-19-2010)

Sec. 42-70. - Home occupations.

Home occupations may be allowed either as permitted accessory uses or as conditionally permitted accessory uses in the "A" Agricultural District or in any of the classes of residential districts.

(1) *Permitted home occupations in the "A" Agricultural District.* The following standards shall apply to permitted home occupations in the "A" Agricultural District:

a. No more than one person other than the member of the family occupying the premises shall be employed in conjunction with a permitted home occupation.

b. The home occupation shall be incidental and subordinate to the use of the premises for farming and residential purposes.

c. The conduct of a home occupation may be carried on in accessory buildings not to exceed a total of 2,000 square feet in gross floor area.

d. No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.

e. Only one non-illuminated sign not to exceed 16 square feet in area shall be allowed in conjunction with the home occupation.

f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises.

(2) *Conditionally permitted home occupations in the "A" Agricultural District.* The following home occupations shall require a conditional use permit when operated in an "A" Agricultural District:

a. Home occupations employing more than one nonresident employee on the premises.

b. Home occupations carried on in an accessory building greater than 2,000 square feet of gross floor area.

(3) *Standards for conditionally permitted home occupations.* The following standards shall apply to conditionally permitted home occupations in the "A" Agricultural District:

a. The number of employees employed in conjunction with a conditionally permitted home occupation shall be determined by the planning commission.

b. The home occupation shall be incidental and subordinate to the use of the premises for farming and related farm activities.

c. The conduct of a home occupation may be carried on in an accessory building, the size of which shall be determined by the planning commission.

d. No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.

e. Only one non-illuminated sign not to exceed 16 square feet in area shall be allowed in conjunction with the home occupation.

f. No equipment or process shall be used in such home occupation to create noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises.

(4) *Home occupations in the residential districts.* The following standards shall apply to home occupations when operated in the residential districts:

a. No more than one person other than a member of the family occupying the dwelling shall be employed in conjunction with the home occupation.

b. The home occupation shall be incidental and subordinate to the use of the premises for residential purposes.

c. No more than 25 percent of the gross floor area of the dwelling unit shall be used for the conduct of the home occupation.

d. There shall be no change in the outside appearance of the dwelling unit or the premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding 1.5 square feet.

e. No home occupation in the "R-1" Rural Residence District or "R-2" Suburban Residence District shall be conducted in any accessory building.

f. No more than 500 square feet of an accessory building in the "RH" Country Homes District shall be used for the conduct of the home occupation.

g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable beyond the limits of the dwelling.

h. No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, electricity, garbage) so that the combined total use for the dwelling and home occupation purposes exceeds the average for the residences in the neighborhood.

(Ord. No. 15, art. 4, § 13, 1-19-2010)

Sec. 42-71. - Site development, landscaping, screening and greenbelt requirements for business and industrial zoning districts.

To minimize adverse effects to adjoining properties and to promote orderly development as well as provide open space in harmony with the environment, the following requirements shall apply to all new, expanded or changes in commercial or industrial development. This shall be interpreted to include new construction or expansion of any building.

(1) Prior to any construction work, the owner, developer or contractor shall submit to the planning and zoning administrator a detailed site development plan which shall include property lines, complete plans for grading, drainage, landscaping, building location, dimension of all buildings, drive and access to public roadways, display and storage areas, and screening and greenbelts.

(2) A minimum of five percent of the total lot area shall be landscaped with grass cover and trees or shrubs. Grass area shall be no less than ten feet in width and the spacing of trees thereon shall not be greater than 50 feet.

(3) When a zoning district which allows commercial, manufacturing, warehousing, and storage activities is located adjacent to any residential zoning district, a multi-row greenbelt as approved by the planning commission shall be required.

(4) Outdoor open storage areas, except those areas for display of operative and well-kept items, shall require a conditional use permit in accordance with the provisions of article VIII of this chapter to determine appropriate location and type of screening or greenbelts.

(5) All open areas of the lot shall be graded to provide adequate drainage to avoid collection of stagnant water, unnecessary runoff onto adjoining properties or public roadways and to prevent soil erosion.

(6) It shall be the responsibility of the owner or lessee to see that the lot area is maintained in a well-kept condition, including regular maintenance and necessary replacement of plantings and compliance of all other provisions of this section.

(7) The planning commission may approve alternates to the above, provided the alternate is as effective as the provisions specified.

(Ord. No. 15, art. 4, § 21, 1-19-2010)

Sec. 42-72. - Additional requirements, exceptions and modifications.

(a) Height limitations set forth elsewhere in this article may be increased by 150 percent when applied to the following:

(1) Monuments.

(2) Flag poles.

(3) Cooling towers.

(4) Grain elevators.

(b) Height limitations set forth elsewhere in this article may be increased with no limitation when applied to the following:

(1) Church spires, belfries or domes which do not contain usable space.

(2) Water towers.

(3) Chimneys or smokestacks.

(4) Radio or television transmitting towers.

(5) Essential service structures.

(6) Wind generators when located in an "A" Agricultural District.

(7) Grain legs and grain transferring equipment when serving a grain elevator or grain bins.

(c) Yard requirements set forth elsewhere in this article may be reduced with no limitation when applied to the following:

(1) Essential service lines.

(2) Essential service structures when required to be on line to ensure the proper functioning of the line.

(d) Yard requirements set forth elsewhere in this article may be reduced as follows: Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts or unoccupied space; provided, however, that this provision shall not apply to one fireplace or one chimney, not more than eight feet in length and projecting not more than 12 inches into the allowable yard space, nor cornices not exceeding 16 inches in width, nor to platforms, terraces steps below the first floor level, nor to unenclosed porches or other ground level unenclosed projections not over one story in height which may extend into a front or rear yard not more than eight feet.

(e) Sight triangle. The required front yard of any lot shall not contain any wall, fence or structure, tree or shrub or other growth which may cause danger to traffic on the road or public road by obscuring the view; except that this subsection shall not apply to agricultural crops.

(Res. No. 98-096, § 1, 8-4-1998; Ord. No. 15, art. 4, § 23, 1-19-2010)

Secs. 42-73—42-102. - Reserved.

DIVISION 2. - "A" AGRICULTURAL DISTRICT

Sec. 42-103. - Purpose.

The "A" Agricultural District is intended to provide a district which will allow suitable areas of the county to be retained in agricultural use; regulate scattered non-farm development; regulate wetlands and woodlands, which, because of their unique physical features, provide a valuable natural resource; and secure economy in governmental expenditures for public services, utilities and schools.

(Ord. No. 15, art. 6, § 1, 1-19-2010)

Sec. 42-104. - Permitted uses.

In the "A" Agricultural District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses:

(1) Any agricultural operation.

(2) Any agricultural building or structure located within the farmyard, including any one-family or two-family farm dwelling located within the farmyard.

(3) Any conservation areas, including water supply works, flood control or watershed protection works, fish or game hatcheries, forest preserves or game refuges.

(4) Any park or recreational area operated by a governmental agency.

(5) Any non-farm single-family or two-family dwelling subject to the provisions of section 42-112.

(6) Wind turbines not exceeding 200 feet in total height. Total height shall include the tower, turbine and blades. Wind turbines shall be as per chapter 26.

(7) Private agricultural use buildings on existing conforming historical dwelling sites, exclusively and permanently for agricultural storage and/or site maintenance use. Use restriction shall be recorded on the parcels deed at the office of the county recorder.

(Ord. No. 15, art. 6, § 2, 1-19-2010; Res. No. 12-046, 2-21-2012)

Sec. 42-105. - Conditional uses.

In the "A" Agricultural District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of article VIII of this chapter:

(1) Any agricultural building or structure for the housing of livestock when located outside of a farmyard, except that portable housing for pastured livestock shall be a permitted accessory use.

(2) Any aircraft landing field and associated facilities.

(3) Any commercial outdoor recreation facilities, including, but not limited to, golf courses, driving ranges, tennis courts, swimming pools and park facilities, provided that any accessory building for these facilities in excess of 500 square feet shall be located not less than 100 feet from any lot line and not less than 200 feet from the nearest dwelling.

(4) Any church, cemetery or memorial garden.

(5) Any community building.

(6) Any commercial radio and television towers and transmitters.

(7) Any migratory labor camp.

(8) Any one manufactured home may be allowed as an accessory to another dwelling, provided the following provisions are complied with:

a. The occupants are in need of special care because of a disability or infirmities of advanced age as affirmed by a physician and are members of the immediate family of the person owning the principal dwelling.

b. The lot area is no less than 2.5 acres and the manufactured home unit shall be placed no less than 200 feet from any dwelling unit or facility housing livestock on adjoining property.

c. The unit at the time of placement is in compliance with the Federal Department of Housing and Urban Development Standards for Manufactured Homes and has no less than 500 square feet of floor area.

d. The manufactured home support and tie down systems shall be in accordance with applicable standards and skirted with noncombustible material in harmony with the exterior decor of the home.

e. The manufactured home shall be considered a temporary use and an agreement shall be executed between the landowner and the planning and zoning administrator and on file with the county recorder stipulating that the manufactured home is removed no more than 180 days after occupancy of the unit is terminated.

(9) Any one manufactured home may be allowed as an accessory to a livestock operation, provided the following provisions are complied with:

a. The manufactured home shall be located on an existing livestock site where agricultural buildings are present.

b. A minimum of 30 animal units shall be kept on site.

c. The manufactured home shall comply with the Federal H.U.D. Construction Standards effective June 15, 1976, and shall have no less than 500 square feet.

d. The manufactured home support and tie down systems shall be in accordance with applicable standards and skirted with noncombustible material in harmony with the exterior decor of the home.

e. The manufactured home shall be considered a temporary use and an agreement shall be executed between the landowner and the planning and zoning administrator and on file with the county recorder stipulating that the manufactured home is removed no more than 180 days after the livestock has been removed from the property.

(10) Any public, private or nursery school.

(11) Any public stable.

(12) Any raising of fur bearing animals or commercial kennel.

(13) Solid waste operations. The following operations shall comply with the provisions as set forth in chapter 32, solid waste:

a. Demolition landfill.

b. Mixed municipal solid waste landfill.

c. Transfer station.

d. Yard waste compost.

e. Mixed municipal solid waste compost.

f. Incinerator.

g. Transportation/collection.

h. Solid waste support facilities, including, but not limited to, offices, repair garage and storage areas.

(14) Any sewage disposal works, including any non-agricultural lagoon, provided that the operation is in accordance with the state pollution control agency regulations.

(15) Cabins. Cabins shall be a maximum of 1,200 square feet with a maximum of 400 square feet dedicated to "S" (storage) occupancy use. State building codes rules on habitable areas shall be adhered to. Design shall be rustic in nature with earth tone colors. Design shall be approved by the planning commission. Location of cabins is limited to established wildlife and recreation areas. If potable water is present or added to a site an approved septic system shall be provided.

(16) Any tourist camp or resort.

(17) Any veterinary clinic.

(18) Wind turbines over 200 feet in total height. Total height shall include the tower, turbine and blades. Wind turbines shall be as per chapter 26.

(19) Seasonal storage of boatlifts and docks not for personal use.

(20) Private use grain storage structures and/or grain storage support buildings located outside the farmyard.

(Res. No. 96-39, §§ 2, 3, 4-1-1996; Ord. No. 15, art. 6, § 3, 1-19-2010)

Sec. 42-106. - Accessory uses.

In the "A" Agricultural District, the following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property:

(1) Any accessory farm use, building or structure within the farmyard.

(2) Any agricultural building or structure for the storage of crops and farm equipment.

(3) Any home occupation as regulated in division 1 of this article

(4) Any building or structure customarily incidental to the non-farm uses.

(5) Any portable housing for pastured livestock.

(6) Any private stable or kennel within the farmyard.

(7) Any temporary building for uses incidental to construction work, provided that such building shall be removed upon completion of the construction work.

(8) Any one temporary building for the sale of farm produce, provided that such building shall be no less than 20 feet from the road right-of-way, and further provided that adequate off-street parking shall be available.

(Ord. No. 15, art. 6, § 4, 1-19-2010)

Sec. 42-107. - Lot size, setback, yard and height requirements.

Any lot in an "A" Agricultural District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

(1) *Lot size width and depth.*

a. Any lot on which a single-family dwelling is erected shall contain an area of not less than 1.5 acres of buildable area and shall have a minimum width of not less than 150 feet at the building setback line and a minimum depth of not less than 200 feet.

b. Any lot on which the keeping of livestock is carried on in conjunction with a single-family dwelling shall contain an area of not less than 2.5 acres of buildable area and shall have a minimum width of not less than 200 feet at the building setback line and minimum depth of not less than 250 feet.

c. For uses other than the above, the lot size shall be adequate to meet the setback, yard and other applicable requirements of this article.

(2) *Yard requirements.* Every permitted, conditionally permitted or accessory building, and every permitted structure, shall meet the following yard requirements:

a. *Front yard.*

1. There shall be minimum setback of 40 feet from the right-of-way line of any public road or highway.

(i) *Exception 1.* Parabolic reflectors may be permitted within the front yard, subject to the following:

A. There shall be a minimum setback of 20 feet from the right-of-way line.

B. The parabolic reflectors shall be of mesh, perforated or transparent type material.

(ii) *Exception 2.* Wind turbines may be permitted subject to the following setback from road right-of-way: 1.1 times the total height, which shall include the tower, turbine and blades, as per chapter 26.

2. In the event any building is located on a lot at the intersection of two or more roads or highways, such lot shall have a front yard abutting each such road or highway.

b. *Side and rear yard.*

1. Any building in which the keeping of livestock, fur-bearing animals or dogs (when such keeping results in the accumulation of animal wastes) is carried on shall maintain a minimum side and rear yard of not less than 50 feet.

2. Any building in which the keeping of fur-bearing animals or dogs (when such keeping results in the accumulation of animal wastes) is carried on shall maintain a separation of 200 feet from any dwelling on adjacent property.

3. Any buildings in which the keeping of livestock results in the accumulation of 300 AUs or more shall maintain a minimum of 100 feet of greenbelt from the road right-of-way.

4. For buildings other than the above, there shall be a minimum side and rear yard of 15 feet.

5. Wind turbines shall be placed from a property line no less than one times the total height, which shall include the tower, turbine and blades. Exception: Wind turbines may be placed closer to a property line if an easement is obtained from the adjacent landowner. The easement shall include the following:

(i) The easement shall describe all lands which could be affected if the tower should structurally fail and fall on lands owned by another.

(ii) The easement shall be in effect as long as the tower/turbine is in place.

c. *Setbacks for wind turbines.* Wind turbines exceeding 200 feet in total height shall have a minimum setback of 500 feet to a residential dwelling on an adjoining property.

d. *Setbacks from drainage systems.* There shall be a minimum setback of 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(3) *Height requirements.* Every permitted, conditionally permitted or accessory building shall meet the following height requirements:

a. Agricultural buildings shall be exempt from the height requirements.

b. Buildings other than agricultural buildings shall not exceed 35 feet in height.

(4) *Exceptions.* Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in section 42-72.

(Ord. No. 15, art. 6, § 5, 1-19-2010)

Sec. 42-108. - Confined feedlot regulations.

Confined feedlots may be allowed in any "A" Agricultural District in accordance with the provisions of article VII of this chapter.

(Ord. No. 15, art. 6, § 6, 1-19-2010)

Sec. 42-109. - Essential services regulations.

Essential service facilities may be allowed in any "A" Agricultural District in accordance with the provisions of article VIII of this chapter.

(Ord. No. 15, art. 6, § 7, 1-19-2010)

Sec. 42-110. - Excavation regulations.

Mining, quarrying, excavating or filling of land may be allowed in any "A" Agricultural District in accordance with the provisions of article V of this chapter.

(Ord. No. 15, art. 6, § 8, 1-19-2010)

Sec. 42-111. - General regulations.

(a) The principal dwelling units in the "A" Agricultural District shall comply with the following limiting factors:

(1) The minimum dwelling width shall be 22 feet. Manufactured homes assembled at a factory shall comply with minimum width requirements and shall bear a Federal Manufactured Home Seal before placement.

(2) All dwellings shall be anchored on a continuous perimeter foundation extending no less than 42 inches below grade.

(3) All dwelling units shall have a minimum of 720 square feet of floor area.

(b) The accessory dwelling units in the "A" Agricultural District shall comply with the following limiting factors:

(1) Manufactured homes shall bear a Federal Manufactured Home Seal.

(2) All dwelling units shall have a minimum of 500 square feet of floor area.

(3) Additional requirements for parking and other regulations in the "A" Agricultural District are set forth in division 12 of this article.

(Ord. No. 15, art. 6, § 9, 1-19-2010)

Sec. 42-112. - Density regulations for dwellings.

(a) *Permitted lots.* Dwellings shall not be sited in any township section containing seven or more dwelling sites. Sending density for the trading development rights program shall be seven. Until November 6, 2015, each land section for the purposes of non-TDR siting shall remain at a limit of nine as an amortization of the use.

(1) Each dwelling shall be sited on a separately surveyed and described parcel.

(2) Each dwelling shall front and abut an existing public road for a distance of not less than 66 feet.

(3) No dwelling shall be sited on land with an agricultural crop rating of greater than 70 as determined by the USDA or SCS soils rating.

(4) No dwelling shall be sited within one-quarter mile of an existing feedlot. Exception: Principal owner of feedlot, owner's spouse, owner's immediate family member.

(5) There shall be a limit of three dwellings per quarter-quarter section allowed.

(b) *Lots of record.* It is the intent of this section that the total dwellings per quarter-quarter section shall not exceed three, except that lots of record (as defined in section 42-7) may be built on, subject to the following conditions:

(1) The lot of record must have existed on the date of adoption of the ordinance from which this article is derived.

(2) The lot of record shall conform to the applicable development standards of this article and other county development ordinances.

(3) No dwelling shall be placed on a lot of record containing an existing dwelling.

(c) *Substandard lots of record.* For substandard lots of record in the agricultural district, each dwelling, together with its accessory buildings and structures, thereafter erected on such lot, shall not occupy more than 20 percent of buildable lot area, with the following condition: Before a permit is issued for construction, applicant shall produce a compliance inspection proving one compliant SSTS and one designated SSTS backup location.

(d) *Expansion into setbacks.* Existing residential dwellings rendered nonconforming only by the required one-fourth mile (1,320 feet) setback between residences and feedlots shall be allowed to expand or replace into the setback if in compliance with all other provisions of county ordinance. This section shall be in full force and effect from and after the date of its passage and publication according to law.

(Res. No. 06-152, 9-19-2006; Ord. No. 15, art. 6, § 10, 1-19-2010; Res. No. 12-247, 11-6-2012; Res. No. 13-058, 3-5-2013; Ord. No. 15.100, 5-6-2014)

Sec. 42-113. - Industrial byproduct and municipal waste application.

(a) Industrial byproduct application may be allowed subject to the following conditions:

(1) Owner/operator shall obtain the state-required NPDES/SDS permit for the specific site and material proposed. The specific state NPDES/SDS permit shall be adopted as county requirements.

(2) Any industrial by-product application approved must have a known soil amendment benefit and not used only as a disposal option.

(3) Storage and application requirements for industrial byproducts.

a. Storage sites with a slope of less than two percent shall have a minimum of a 100-feet grass buffer around any positive slope of the site.

b. Storage sites with a slope of greater than two percent run-on and run-off of stormwater must be controlled. The owner or operator must implement management practices designed to control run-on and run-off of stormwater from the storage area. The owner or operator must

design, construct, operate and maintain a stormwater management system capable of collecting and controlling the volume of contaminated stormwater resulting from a 24-hour, 25-year storm unless otherwise directed by the county.

c. Long-term and permanent storage sites shall be prohibited.

d. Liquid industrial byproducts may be stored in a certified manure confinement pit with the required state and county approval.

1. All testing, notification requirements of the state permit and county ordinance shall apply.

2. Storage in a pit shall not bring storage capacity below the nine-month minimum required storage of the combined manure and industrial by-product.

3. Liquid industrial by-product shall not be stored in any open pits, lagoons or tanks.

4. Short-term storage shall use the minimum or greater requirements as found in Minn. Admin. Rules § 7020.2125(1) through (3) and all other applicable county ordinance provisions.

e. A preapproved application plan specifying field locations based on agronomic rates, and complying with all other applicable county ordinance provisions, shall be submitted to the county environmental services and approved by staff before spreading or storage. A zoning permit from the zoning administrator shall be required before any product is brought to or spread on a site.

f. A 200-foot application setback is required from any neighboring property raising any product for direct human consumption.

g. The owner, operator, or applicator shall, on a daily basis, notify the county environmental services department before stockpiling or spreading within the county. Persons applying industrial byproducts shall be licensed as a Type IV certified operator.

(b) Municipal biosolid and semisolid application may be allowed as a permitted use subject to the following conditions:

(1) Persons applying municipal waste shall be licensed as a Type IV-certified operator.

(2) Handling of municipal waste shall be in accordance with Minn. Admin. Rules ch. 7041.

(c) Testing and notification.

(1) The county environmental services shall be provided with a copy of MPCA's required industrial by-product land application annual report or biosolids annual report by December 31 of each year following the original permit issuance. (This may be electronically submitted.)

(2) The applicant is subject to random tests of product at landowners expense.

(Ord. No. 15, art. 6, § 11, 1-19-2010; Ord. No. 15.102, 5-6-2014)

Sec. 42-114. - Transfer of development rights in the "A" Agricultural District.

(a) *Statutory authorization.* M.S.A. § 394.25 specifically authorizes counties to adopt zoning ordinances that establish land use districts allowing the transfer of development rights from areas where preservation is desirable to areas more desirable for development.

(b) *Purpose.* The purpose of transfer of development rights regulations is to provide a voluntary, incentive-based process for protecting agricultural resources while promoting development in areas more appropriate for development, such as less productive areas, and areas served with road and utility infrastructure. The transfer of development rights regulations specifically implement and use policies for agricultural districts as provided in article II of chapter 24, planning and development.

(c) *Transfer of development rights sending areas.* Application for a transfer of development rights shall be made to the county zoning administrator.

(1) Development rights may be transferred to contiguous adjoining sections within the "A" Agriculture District. Contiguous also includes sections that touch by corner points.

(2) Urban overlay and shoreland districts shall not qualify as part of the TDR receiving program.

(3) Transfers across township boundaries. Development rights may be transferred across township boundaries only when sending and receiving sections are contiguous, and when authorized by both township boards.

(d) *Calculation of transferable development sites.*

(1) Existing buildable lots of record or existing historical building sites shall receive one development right. All other transferable development sending parcels shall be a minimum of 20 acres.

(2) Transferrable parcels shall be based on restrictions and quantities found in section 42-112.

(3) A receiving site is not eligible to be again transferred as part of the TDR receiving program.

(e) *Use of development rights in receiving areas.*

(1) Development rights may be applied to any dwelling type permitted in the zoning district.

(2) No more than one development right shall be transferred to a single property unless a plat is being completed to utilize each development right. The transfer of development rights shall be recorded with the plat. A plat shall only be approved in accordance with the "Freeborn County Subdivision Ordinance."

(3) A transfer of development rights bank shall not be allowed. All development rights shall be transferred to a legally described property in accordance with this section.

(4) A transfer right shall only be used to vary from density limits as found in section 42-112(a)(5) in the receiving section. A receiving section shall have a limit of 12 residences with a limit of four per quarter-quarter. A transfer right cannot be used to bypass any provision of section 42-112(a)(1) through (4).

(5) Minimum size of a new site shall be 1.5 acres of buildable area.

(6) Approvals under subdivision chapter, article 2, section 1, 2 become invalid upon the land section exceeding density limitations or other limiting factors found in ordinance #15.

(f) *Limitations on future development of sending areas.* After the transfer of development rights, further development of the sending parcel is restricted based on the number of rights transferred. If all development rights have been transferred or used, the parcel is restricted to agricultural and open space uses. Should the zoning of sending parcel be changed in the future to allow additional density, the number of development rights already used shall be subtracted from the total number of units permitted. This restriction shall be removed if the property is annexed into a city. The maximum allowed density in any given section as specified in section 42-112(a) shall be reduced by one for each development right transferred out, and shall not be considered as a basis for a variance request.

(g) *Development agreements and recording of restrictions.* The following information shall be recorded as part of the transfer of development rights:

(1) *Common ownership.* Development rights transferred between parcels that are under common ownership shall occur only if the transfer is recorded on the deeds of all sending parcels and receiving properties. The property owners shall be responsible for recording all required documents with the county recorder's office and submitting them to the county zoning administrator.

(2) *Separate ownership.* Development rights transferred between parcels under separate ownership shall be the subject of a development agreement restricting future development between the property owner that shall be executed and recorded on the deeds of all affects parcels. The

transfer shall also be recorded on the deeds of all sending parcels and receiving properties. The property owners shall be responsible for recording all required documents with the county recorder and submitting them to the county zoning administrator.

(h) *Zoning map.* All density transfers shall be recorded on the official zoning map by the zoning administrator.

(i) *Terms of restriction.* The development agreement required under this division shall, at a minimum, contain the following terms:

(1) A legal description of the sending and receiving parcels.

(2) The number of development rights transferred.

(3) The restriction on future development or subdivision of the sending parcel.

(4) The restriction of the sending parcel to agricultural and open space uses only.

(5) Any provisions for required development rights to be used in the future on the sending parcel.

(6) The county shall have the right to enforce the terms of the agreement.

(7) The agreement shall be signed and executed by the landowners of both the sending and receiving parcels.

(8) Acknowledgement that all parties received the county's agricultural zone use statement.

(Ord. No. 15, art. 6, § 12, 1-19-2010; Res. No. 12-247, 11-6-2012)

Secs. 42-115—42-141. - Reserved.

DIVISION 3. - "PD" PLANNED DEVELOPMENT DISTRICT

Sec. 42-142. - Purpose.

The "PD" Planned Development District is to encourage developers to use a creative approach in the development of suitable areas for commercial, industrial, recreational, and/or residential projects. This district is to be adjacent to a suitable transportation system, existing or planned business areas, and public utilities (or have a suitable area for a compliant on-site sewage treatment system). It is furthermore intended that a "PD" Planned Development District shall utilize existing topography, trees, ponds and other natural features of the land.

(Ord. No. 15, art. 20, § 1, 1-19-2010)

Sec. 42-143. - Uses.

(a) All uses in the "PD" Planned Development District shall be planned uses. They can include, but are not limited to, the following:

(1) Commercial and light industrial developments.

(2) Multiple dwelling units.

(3) Education facilities.

(4) A combination of any of the above.

(b) Uses other than the principal type of use by area permitted in the zoning district or districts in which land proposed for such development is located shall not result in undue adverse effect on surrounding areas, and shall be consistent with the intent of this chapter and the concept of the proposed planned development district.

(Ord. No. 15, art. 20, § 2, 1-19-2010)

Sec. 42-144. - General requirements.

Uses established in the "PD" Planned Development District shall be operated subject to the following conditions:

(1) The property shall be in single ownership or control at the time the application for planned development district zoning is submitted.

(2) No planned development district shall be less than three contiguous acres.

(3) No more than 40 percent of the net land area of the subject tract may be developed (covered) with principal and accessory buildings. A minimum of 20 percent of land area shall be open space. Such space should be effectively separated from automobile traffic and parking and readily accessible. The term "open space" shall not include space devoted to streets and parking. Such space shall be properly planned landscaping or natural environment.

(4) Although public utilities are the preferred environmentally friendly method, septic and well systems can be considered for small projects. Such systems can be part of the open space. Undisturbed areas for an approved septic treatment system and a secondary area must be available.

(5) The "PD" Planned Development District shall be in harmony with the county land use policy plan.

(6) The use shall be planned and developed to harmonize with any existing or imminent development in areas surrounding the project site.

(7) Use shall not be in conflict with this chapter.

(Ord. No. 15, art. 20, § 3, 1-19-2010)

Sec. 42-145. - Lot size, setback, yard and height requirements.

(a) *Lot size and width.* Any lot used as a planned use shall have a minimum lot size of 40,000 square feet and have a frontage of not less than 100 feet.

(b) *Yard requirements.* Every permitted structure shall meet the following yard requirements:

(1) *Front yard.*

a. A front yard of not less than 45 feet shall be provided as measured from the street right-of-way line.

b. In the event any building is located on a lot at the intersection of two or more roads or highways, such lot shall have a front yard abutting each such road or highway.

(2) *Side yard.*

a. Every lot shall have two side yards. Each side yard shall have a minimum width of 20 feet. Exception: Setbacks along the common property lines or side yards for multi-residential dwelling units spanning lot lines that meet minimum Building Code.

b. For corner lots abutting any agricultural or residential district, a minimum side yard of 45 feet shall be required.

(3) *Rear yard.* A rear yard of not less than 20 feet shall be required; where alleys exist the measurements of the rear yard may include one-half the width of the alley.

(4) *Setbacks from drainage systems.* There shall be a minimum setback of 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(c) *Height requirements.* Every permitted structure shall meet the following height requirements: Any building shall not exceed 40 feet in height.

(d) *Exceptions.* Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in section 42-72.

(Ord. No. 15, art. 20, § 4, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-146. - Essential services regulations.

Essential service facilities may be allowed in any "PD" Planned Development District in accordance with the provisions of article VIII of this chapter.

(Ord. No. 15, art. 20, § 5, 1-19-2010)

Sec. 42-147. - General regulations.

Additional requirements for parking and other regulations in "PD" Planned Development District are set forth in division 12 of this article.

(Ord. No. 15, art. 20, § 6, 1-19-2010)

Sec. 42-148. - Application procedure.

(a) An applicant for a "PD" Planned Development District shall submit a preliminary plan to the planning commission, with a $300.00 fee for the reviewing and processing of the planned use request. Such preliminary plan shall be signed by the owner of every property within the boundaries of the proposed planned development.

(b) The drawings, which are part of the preliminary development plan, shall contain the following information and any additional information required in this section or by county staff:

(1) Location and size of the site and nature of the landowner's interest in the land to be developed; legal description of the site.

(2) The density and type of the land use to be allocated to the several parts of the site to be developed.

(3) The location and size of any common open space and the form of organization proposed to own and maintain such space.

(4) A site plan showing the location of all existing and proposed principal and accessory buildings and other structures, parking lots, buffer strips, plantings, driveways, curb cuts, open areas, etc.

(5) A vicinity map showing the location of the site in relation to the surrounding neighborhood.

(6) Architectural sketches, at an appropriate scale, showing building height section, interior layout and proposed uses.

(7) Proposals for design, location and width of proposed streets and public ways.

(8) Proposal for the distribution of sanitary waste and stormwater.

(9) For plans which call for phased development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the planned unit development are intended to be filed.

(10) A topographic map of the subject property, prepared by a registered civil engineer or a licensed land surveyor, covering the entire tract proposed for development and indication existing

conditions and development for and additional area, including at least 300 feet from tract boundaries. Such map shall be drawn on a scale no smaller than one inch equals 100 feet, shall indicate topography at two-foot contour intervals and shall show in accurate detail the topography, existing buildings and existing land and vegetation features.

(11) Plans for all public and private utilities proposed to serve the site.

(c) The written statement which is a part of such preliminary plan shall include the following:

(1) A description of the character of the planned development and the manner in which it has been planned to take advantage of the planned development regulations.

(2) Economic feasibility analysis.

(3) A statement of provisions for ultimate ownership and maintenance of all parts of the development, including streets, buildings, structures, utilities and open spaces.

(4) Total anticipated population to occupy the planned development, with breakdowns as to the number of schoolage children, adults and families.

(d) The documents described in subsection (b) of this section shall include a survey acceptable as a plat complying with chapter 34.

(Ord. No. 15, art. 20, § 7, 1-19-2010)

Sec. 42-149. - Approval process.

(a) *Planning commission.* The planning commission shall review the preliminary plan. Within 30 days after such review, the commission shall, by motion, recommend approval in principle, approval with modifications, or denial of such preliminary plan.

(b) *Board of commissioners.* The board of commissioners shall consider the preliminary plan at a public meeting. The board shall either grant approval in principle, approval with modifications, or deny such preliminary plan.

(c) *Final approval.* Upon approval of the preliminary plan by the county board of commissioners, the final plan may be submitted to the planning commission for consideration.

(1) The final plan shall include all information on the application along with any modifications or changes agreed upon during the application process. County staff may also request additional information.

(2) Upon recommendation for approval of the final plan by the planning commission, the county board of commissioners shall, by resolution, vote to approve or deny such plan.

(3) If property is not developed as per the approved final plan, the zone shall remain "PD" Planned Development. Subsequent development shall require plan approval per the requirements of this division.

(Ord. No. 15, art. 20, § 8, 1-19-2010)

Sec. 42-150. - Re-zoning.

The application for re-zoning shall be submitted simultaneously with the final plan. The request for re-zoning may be acted on by the planning commission and the county board of commissioners upon their respective approval of the final plan. Change of zones shall be in accordance with article XII of this chapter. It is the intent that the approved final plan of a "PD" Planned Development District shall be a requirement to the zone change. Zoning shall remain "PD" Planned Development District unless petition for change is requested as per article XII of this chapter.

(Ord. No. 15, art. 20, § 9, 1-19-2010)

Secs. 42-151—42-168. - Reserved.

DIVISION 4. - "RH" COUNTRY HOMES DISTRICT

Sec. 42-169. - Purpose.

The "RH" Country Homes District is intended to provide large residential sites to accommodate a country estate style of living, including the keeping of animals as pets and for recreational but not for commercial purposes. All buildings or structures constructed or erected shall comply with the state building code.

(Ord. No. 15, art. 7, § 1, 1-19-2010)

Sec. 42-170. - Permitted uses.

In the "RH" Country Homes District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses:

(1) Any crop farming, vegetable garden or nursery crop.

(2) Any park or recreational area operated by a governmental agency.

(3) Any single-family dwelling or two-family dwelling subject to the provision of section 42-173(6).

(Ord. No. 15, art. 7, § 2, 1-19-2010)

Sec. 42-171. - Conditional uses.

In the "RH" Country Homes District, the following uses may be allowed, subject to obtaining a conditional use permit in accordance with the provisions of article VIII of this chapter:

(1) Any commercial outdoor recreation facilities, including, but not limited to, golf courses, driving ranges, tennis courts, swimming pools and park facilities, provided that any accessory building for these facilities in excess of 500 square feet shall be located not less than 100 feet from any lot line and not less than 200 feet from the nearest dwelling.

(2) Any church.

(3) Any community building.

(4) Any public or private school.

(Ord. No. 15, art. 7, § 3, 1-19-2010)

Sec. 42-172. - Accessory uses.

In the "RH" Country Homes District, the following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property:

(1) Any accessory building as regulated in this article.

(2) Any accessory building, structure, or use customarily incidental to any park, recreational area or playground.

(3) Any home occupation as regulated in division 1 of this article.

(4) Any keeping of livestock, including horses and ponies, subject to the following provisions:

a. Ownership or care shall be the responsibility of the occupants.

b. The use shall be primarily by the occupants and limited to recreation, personal consumption or club projects.

c. When livestock is pastured or corralled, the maximum number shall be limited to three, except that one additional animal shall be allowed for each acre of land in excess of five acres.

d. When all livestock is housed wholly within a barn or stable, the number may be increased to allow not more than one animal for each one-half acre with a maximum of 20, provided that:

1. All manure and waste shall be removed from the barn or stable regularly.

2. During the months of May through November, inclusive, all manure and other waste shall be stored in either leakproof containers or covered receptacles. During these months no manure shall be stored on the surface of the ground.

3. All vehicles or containers used to transport animal manure or waste shall be so constructed and loaded, and covered when necessary, so that the contents will not fall, leak or spill.

4. All manure and waste shall be disposed of off the premises on agricultural land in such a manner as not to create a nuisance or a potential pollution hazard to the land, water or air.

e. No potential pollution hazard or nuisance shall be created by the keeping of livestock. The county, at its discretion, may impose any or all of the requirements of the state pollution control agency feedlot and solid waste disposal regulations.

1. Any keeping of small animals or poultry, provided they are so housed and fenced as not to create a nuisance.

2. Any private stable or barn located in the rear yard only. Such private stable or barn shall maintain a 150-foot setback from any dwelling on adjacent property and shall also maintain a 75-foot side and rear yard.

3. Any temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of such construction work.

4. Any temporary use of the premises by individuals other than the occupants for the exhibition or competition of horses, ponies or motorized vehicles, provided that a temporary permit is obtained from the administrator of this article.

(Ord. No. 15, art. 7, § 4, 1-19-2010)

Sec. 42-173. - Lot size, setback, yard and height requirements.

Any lot in an "RH" Country Homes District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

(1) *Lot size, width and depth.* Any lot on which a single-family dwelling is erected shall contain an area of not less than 2.5 acres of buildable area and shall have a minimum width of not less than 200 feet at the building setback line and a minimum depth of not less than 250 feet.

(2) *Yard requirements.* Every permitted, conditionally permitted or accessory building, and every permitted structure, shall meet the following yard requirements:

a. *Front yard.*

1. There shall be a minimum setback of 40 feet from the right-of-way line of any public road or highway. Exception: Parabolic reflectors may be permitted within the front yard, subject to the following:

   (i) There shall be a minimum setback of 20 feet from the right-of-way line.

   (ii) The parabolic reflectors shall be of mesh, perforated or transparent type material.

2. In the event any building is located on a lot at the intersection of two or more roads or highways, such lot shall have a front yard abutting each such road or highway.

b. *Side yard.* Every building shall have two side yards. Each side yard shall have a minimum width of 25 feet.

c. *Rear yard.* Every building shall have a rear yard. The rear yard shall have a minimum depth of 50 feet.

d. *Setbacks from drainage systems.* There shall be a minimum setback of 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(3) *Height requirements.* Every permitted, conditionally permitted or accessory building shall meet the following height requirements:

a. All permitted or conditionally permitted principal buildings shall not exceed 35 feet in height.

b. Accessory buildings shall comply with regulations set forth in this article.

(4) *Substandard lots of record.* For substandard lots of record in the RH district each one family dwelling, together with its accessory buildings, thereafter erected on such lot, shall not occupy more than 15 percent of the buildable lot area.

(5) *Exceptions.* Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in section 42-72.

(6) *Distance from confined feedlots.* No residential use, including residential subdivisions, shall be sited within one-quarter mile of an existing confined feeding operation of less than 300 animal units, or within one-half mile of an existing confined feeding operation of more than 300 animal units.

(Ord. No. 15, art. 7, § 5, 1-19-2010; Res. No. 13-058, 3-5-2013)

Sec. 42-174. - Essential services regulations.

Essential services facilities may be allowed in any "RH" Country Homes District in accordance with the provisions of article VIII of this chapter.

(Ord. No. 15, art. 7, § 6, 1-19-2010)

Sec. 42-175. - General regulations.

Additional requirements for parking and other regulations in the "RH" Country Homes District are set forth in division 12 of this article.

(Ord. No. 15, art. 7, § 7, 1-19-2010)

Secs. 42-176—42-203. - Reserved.

DIVISION 5. - "R-1" RURAL RESIDENCE DISTRICT

Sec. 42-204. - Purposes.

The "R-1" Rural Residence District is intended to define and protect low density residential areas from the intrusion of uses not performing a function appropriate to the principal use of the land for residential dwellings and related facilities desirable for a residential environment. It is also intended that the district occur in rural areas using on-lot or group utilities to serve the low density, residential uses. All buildings or structures constructed or erected shall comply with the state building code.

(Ord. No. 15, art. 8, § 1, 1-19-2010)

Sec. 42-205. - Permitted uses.

In the "R-1" Rural Residence District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses: Any single-, two-family dwelling, or residential subdivision subject to the provisions of section 42-208(6).

(Ord. No. 15, art. 8, § 2, 1-19-2010)

Sec. 42-206. - Conditional uses.

In the "R-1" Rural Residence District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of article VIII of this chapter:

(1) Any church.

(2) Any community building.

(3) Any public school.

(Ord. No. 15, art. 8, § 3, 1-19-2010)

Sec. 42-207. - Accessory uses.

In the "R-1" Rural Residence District, the following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property:

(1) Any home occupation as regulated in division 1 of this article.

(2) Any private garage.

(3) Any temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of such construction work.

(4) Any other accessory building, structure or use customarily incidental to the permitted or conditionally permitted uses of this article.

(Ord. No. 15, art. 8, § 4, 1-19-2010)

Sec. 42-208. - Lot size, setback, yard and height requirements.

Any lot in an "R-1" Rural Residence District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

(1) *Lot size, width and depth.*

a. Any lot on which a single-family dwelling is erected shall contain an area of not less than 40,000 square feet of buildable area and shall have a minimum width of not less than 150 feet at the building setback line and a minimum depth of not less than 200 feet. The above lot area may be reduced if, because of topography, soil conditions and other pertinent characteristics of the lot, a lesser area will be adequate to accomplish the objectives of this article. The planning commission may, at its discretion, approve a lot size of lesser area, but in no event less than 30,000 square feet.

b. For uses other than the above, the lot size shall be adequate to meet the setback, yard and other applicable requirements of this article.

(2) *Yard requirements.* Every permitted, conditionally permitted or accessory building, and every permitted structure, shall meet the following yard requirements:

a. *Front yard.*

1. There shall be a minimum setback of 40 feet from the right-of-way line of any public road or highway; except that this setback may be reduced to 25 feet when such public road is a minor street serving only a residential subdivision. Exception: Parabolic reflectors may be permitted within the front yard, subject to the following:

(i) There shall be a minimum setback of 20 feet from the right-of-way line.

(ii) The parabolic reflectors shall be of mesh, perforated or transparent type material.

2. In the event any building is located on a lot at the intersection of two or more roads or highways, such lot shall have a front yard abutting each such road or highway.

b. *Side yard.* Every building shall have two side yards. Each side yard shall have a minimum width of eight feet.

c. *Rear yard.* Every building shall have a rear yard. The rear yard shall have a minimum depth of 50 feet.

d. *Setbacks from drainage systems.* There shall be a minimum setback of 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(3) *Height requirements.* Every permitted, conditionally permitted or accessory building shall meet the following height requirements:

a. All permitted or conditionally principal buildings shall not exceed 35 feet in height.

b. Accessory buildings shall comply with regulations set forth in division 1 of this article.

(4) *Substandard lots of record.* For substandard lots of record in the R-1 district each one-family dwelling, together with its accessory buildings, thereafter erected on such lot, shall not occupy more than 15 percent of the buildable lot area.

(5) *Exceptions.* Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in section 42-72.

(6) *Distance from confined feedlots.* No residential use, including residential subdivisions, shall be sited within one-quarter mile of an existing confined feeding operation of less than 300 animal units, or within one-half mile of an existing confined feeding operation of more than 300 animal units.

(Ord. No. 15, art. 8, § 5, 1-19-2010; Res. No. 13-058, 3-5-2013)

Sec. 42-209. - Essential service regulations.

Essential service facilities may be allowed in any "R-1" Rural Residence District in accordance with the provisions of article VIII of this chapter.

(Ord. No. 15, art. 8, § 6, 1-19-2010)

Sec. 42-210. - General regulations.

Additional requirements for parking and other regulations in the "R-1" Rural Residence District are set forth in division 12 of this article.

(Ord. No. 15, art. 8, § 7, 1-19-2010)

Secs. 42-211—42-228. - Reserved.

DIVISION 6. - "R-2" SUBURBAN RESIDENCE DISTRICT

Sec. 42-229. - Purpose.

The "R-2" Suburban Residence District is intended to provide a district which will define and protect areas suitable for low to medium density residential development as the principal use of the land and to allow related facilities desirable for a residential environment. It is also intended that this district allow varying densities of development in accordance with the ability to provide water and sewer facilities. All buildings or structures constructed or erected shall comply with the state building code.

(Ord. No. 15, art. 9, § 1, 1-19-2010)

Sec. 42-230. - Permitted uses.

In the "R-2" Suburban Residence District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses:

(1) Any single-, two-family dwelling, or residential subdivision, subject to the provisions of section 42-233(6).

(2) Any multifamily dwelling in groups of not more than 16 housekeeping units in any one building subject to the provisions of section 42-233(6).

(Ord. No. 15, art. 9, § 2, 1-19-2010)

Sec. 42-231. - Conditional uses.

In the "R-2" Suburban Residence District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of article VIII of this chapter:

(1) Any boardinghouses and roominghouses or tourist homes.

(2) Any church.

(3) Any community building.

(4) Any park or recreational area.

(5) Any public or private school.

(Ord. No. 15, art. 9, § 3, 1-19-2010)

Sec. 42-232. - Accessory uses.

In the "R-2" Suburban Residence District, the following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property:

(1) Any home occupation as regulated in division 1 of this article.

(2) Any private garages, either separated or in connected groups, having common unpierced dividing walls between contiguous private garages.

(3) Any temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of such construction work.

(4) Any other accessory building, structure or use customarily incidental to the permitted or conditionally permitted uses of this article.

(Ord. No. 15, art. 9, § 4, 1-19-2010)

Sec. 42-233. - Lot size, setback, yard and height requirements.

Any lot in an "R-2" Suburban Residence District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

(1) *Lot size, width and depth.*

a. Any lot on which a permitted residential use is erected shall contain 20,000 square feet of buildable area per dwelling unit and shall have a minimum width of 100 feet at the building setback line and a minimum depth of 125 feet when such use is served by on-lot sewer and water.

b. Any lot on which a permitted residential use is erected shall contain 6,000 square feet of buildable area per dwelling unit and shall have a minimum width of 100 feet at the building setback line and a minimum depth of 125 feet when such use is served by a municipal sewage system.

c. For uses other than the above, the lot size shall be adequate to meet the setback, yard and other applicable requirements of this article.

(2) *Yard requirements.* Every permitted, conditionally permitted or accessory building, and every permitted structure, shall meet the following yard requirements:

a. *Front yard.*

1. There shall be a minimum setback of 40 feet from the right-of-way line of any public road or highway; except that this setback may be reduced to 25 feet when such public road is a minor street serving only a residential subdivision. Exception: Parabolic reflectors may be permitted within the front yard, subject to the following:

(i) There shall be a minimum setback of 20 feet from the right-of-way line.

(ii) The parabolic reflectors shall be of mesh, perforated or transparent type material.

2. In the event any building is located on a lot at the intersection of two or more roads or highways, such lot shall have a front yard abutting each such road or highway.

b. *Side yard.* Every building shall have two side yards. Each side yard shall have a minimum width of eight fees. Exception: Setbacks along the common property lines or side yards for multi-residential dwelling units spanning lot lines that meet minimum building code.

c. *Rear yard.* Every building shall have a rear yard. The rear yard shall have a minimum depth of 35 feet.

d. *Setbacks from drainage systems.* There shall be a minimum setback of 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(3) *Height requirements.* Every permitted, conditionally permitted or accessory building shall meet the following height requirements.

a. All permitted or conditionally permitted principal buildings shall not exceed 35 feet in height.

b. Accessory buildings shall comply with regulations set forth in this article.

(4) *Lot coverage.* No building, together with its accessory buildings, shall occupy more than 25 percent of the total lot area.

(5) *Exceptions.* Certain uses are exempted from meeting the lot's size, yard and height requirements. These exceptions are listed in section 42-72.

(6) *Distance from confined feedlots.* No residential use, including residential subdivisions, shall be sited within one-quarter mile of an existing confined feeding operation of less than 300 animal units, or within one-half mile of an existing confined feeding operation of more than 300 animal units.

(Ord. No. 15, art. 9, § 5, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-234. - Essential service regulations.

Essential service facilities may be allowed in any "R-2" Suburban Residence District in accordance with the provisions of article VIII of this chapter.

(Ord. No. 15, art. 9, § 6, 1-19-2010)

Sec. 42-235. - General regulations.

Additional requirements for parking and other regulations in the "R-2" Suburban Residence District are set forth in division 12 of this article.

(Ord. No. 15, art. 9, § 7, 1-19-2010)

Secs. 42-236—42-263. - Reserved.

DIVISION 7. - "U" URBAN EXPANSION DISTRICT

Sec. 42-264. - Purpose.

(a) The "U" Urban Expansion District is intended to provide a district adjacent to municipalities designed for the protection and separation of urban and rural uses. The dual purpose of protection and separation of these dissimilar uses is accomplished through the designation of three subdistricts, the U-1 district, the U-2 district, and the U-3 district.

(1) The "U-1" Urban Expansion District 1 is designed to:

a. Contain and manage urban development within planned urban areas where basic services, such as sewers, water facilities and police and fire protection can be provided efficiently and economically.

b. Conserve resources by encouraging orderly development of land.

c. Make it possible for utility extension, transportation facilities and schools to be designed and located so as to match population change more closely.

d. Preserve farmland and open space until there is a communitywide need to convert these lands to urban use.

(2) The "U-2" Urban Commercial Expansion District is designed to:

a. Contain and manage urban commercial development within planned urban areas where basic services, such as sewers, water facilities and police and fire protection, can be provided efficiently and economically.

b. Conserve resources by encouraging orderly development of land.

c. Make it possible for utility extensions, transportation facilities and schools to be designed and located so as to match population change more closely.

d. Preserve farmland and open space until there is a communitywide need to convert these lands to urban uses.

(3) The "U-3" Urban Expansion District 3 is designed to:

a. Preserve and protect farmland on a permanent basis by carefully regulating non-farm development.

b. Provide a transition zone between urban fringe areas and areas of permanent agricultural designation by regulation of intensive farming operations, such as confined feedlots.

(4) The "U" Urban Expansion District is designed to:

a. Make more economical use of local tax dollars in locating facilities and providing services for the benefit of all citizens within the urban rural transition area.

b. Provide property owners greater security in long range planning and investments.

c. Preserve and enhance the livability of the area.

(b) It is intended that the status of all areas in this district be reviewed, jointly by the appropriate planning bodies or their representatives once per calendar year. Upon completion of this review, each of the planning bodies should recommend to the appropriate governing bodies any land use changes for the "U" Urban Expansion District. Recommendations for changes may include the following:

(1) The addition or removal of land from the "U" Urban Expansion District or its subdistricts.

(2) The rezoning of land to a more appropriate land use classification.

(Ord. No. 15, art. 10, § 1, 1-19-2010)

Sec. 42-265. - Permitted uses.

In the "U" Urban Expansion District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses:

(1) Any agricultural operations, except that no new animal feedlot shall be allowed in this district.

(2) Any agricultural building or structure located within the farmyard, including any one-family or two-family farm dwelling or any one manufactured home located within the farmyard.

(3) Any conservation areas including water supply works, flood control or watershed protection works, fish or game hatcheries, forest preserves or game refuges.

(4) Any park or recreation area operated by a governmental agency.

(5) Any non-farm one-family or two-family dwelling in a U-1 or U-3 district subject to the provisions of section 42-271.

(6) UR #1 and UR #2 districts: wind turbines under 100 feet in hub height; UR #3 districts turbines under 200 feet in hub height.

(Ord. No. 15, art. 10, § 2, 1-19-2010; Res. No. 11-199, 9-6-2011)

Sec. 42-266. - Conditional uses.

In the "U" Urban Expansion District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of article VIII of this chapter:

(1) Any agricultural building or structure for the housing of livestock when located outside of a farmyard, except that portable housing for pastured livestock shall be a permitted accessory use.

(2) Any commercial outdoor recreation facilities, including, but not limited to, golf courses, driving ranges, tennis courts, swimming pools and park facilities, provided that any accessory building for these facilities in excess of 500 square feet shall be located not less than 100 feet from any lot line and not less than 200 feet from the nearest dwelling.

(3) Any church, cemetery or memorial garden.

(4) Any community building.

(5) Any commercial radio and television towers and transmitters.

(6) Any one manufactured home may be allowed as an accessory to another dwelling, provided the following provisions are complied with:

   a. The occupants are in need of special care because of a disability or infirmities of advanced age as affirmed by a physician and are members of the immediate family of the person owning the principal dwelling.

   b. The lot area is no less than 2.5 acres.

   c. The unit at the time of placement is in compliance with the Federal H.U.D. Code for manufactured homes and has no less than 500 square feet of floor area.

   d. The manufactured home support and tie down systems shall be in accordance with applicable standards and skirted with noncombustible material in harmony with the exterior decor of the home.

   e. The manufactured home shall be considered a temporary use and an agreement shall be executed between the land owner and the planning and zoning administrator and on file with the county recorder stipulating that the manufactured home is removed no greater than 180 days after occupancy of the unit is terminated.

(7) Any public or private school.

(8) Any public stable.

(9) Any raising of fur-bearing animals or commercial kennel.

(10) Any additional single-family, non-farm dwelling, subject to the provisions of section 42-271.

(Ord. No. 15, art. 10, § 3, 1-19-2010; Res. No. 11-199, 9-6-2011)

Sec. 42-267. - Accessory uses.

In the "U" Urban Expansion District, the following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property:

(1) Any accessory farm use, building or structure within the farmyard.

(2) Any agricultural building or structure for the storage of crops and farm equipment.

(3) Any home occupation as regulated in division 1 of this article.

(4) Any building or structure customarily incidental to the non-farm uses.

(5) Any portable housing for pastured livestock.

(6) Any private stable or kennel within the farmyard.

(7) Any temporary building for uses incidental to construction work, provided that such building shall be removed upon the completion of the construction work.

(8) Any one temporary building for the sale of farm produce, provided that such building shall be no less than 20 feet from the road right-of-way, and further provided that adequate off-street parking shall be available.

(Ord. No. 15, art. 10, § 4, 1-19-2010)

Sec. 42-268. - Lot size, setback, yard and height requirements.

Any lot in a "U" Urban Expansion District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

(1) *Lot size, width and depth.*

a. Any lot on which a single-family dwelling is erected shall contain an area of not less than 1.5 acre of buildable area and shall have a minimum width of not less than 150 feet at the building setback line and a minimum depth of not less than 200 feet.

b. Any lot on which the keeping of livestock is carried on in conjunction with a single-family dwelling shall contain an area of not less than 2.5 acres of buildable area and shall have a minimum width of not less than 200 feet at the building setback line and minimum depth of not less than 250 feet.

c. For uses other than the above, the lot size shall be adequate to meet the setback, yard and other applicable requirements of this article.

(2) *Yard requirements.* Every permitted, conditionally permitted or accessory building, and every permitted structure, shall meet the following yard requirements:

a. *Front yard.*

1. There shall be a minimum setback of 40 feet from the right-of-way line of any public road or highway.

2. In the event any building is located on a lot at the intersection of two or more roads or highways, such lot shall have a front yard abutting each such road or highway.

b. *Side and rear yard.*

1. Any building in which the keeping of livestock, fur-bearing animals or dogs (when such keeping results in the accumulation of animal wastes) is carried on shall maintain a minimum side and rear yard of not less than 50 feet.

2. Any building in which the keeping of livestock, fur-bearing animals or dogs (when such keeping results in the accumulation of animal wastes) is carried on shall maintain a separation of 200 feet from any dwelling on adjacent property.

3. For buildings other than the above, there shall be a minimum side and rear yard of 25 feet.

c. *Setbacks from drainage systems.* There shall be a minimum setback of 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(3) *Height requirements.* Every permitted, conditionally permitted or accessory building shall meet the following height requirements:

a. Agricultural buildings shall be exempt from the height requirements.

b. Buildings other than agricultural buildings shall not exceed 35 feet in height.

(4) *Exceptions.* Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in section 42-72.

(Res. No. 06-152, 9-19-2006; Ord. No. 15, art. 10, § 5, 1-19-2010)

Sec. 42-269. - Essential service regulations.

Essential service facilities may be allowed in any "U" Urban Expansion District in accordance with the provisions of article VIII of this chapter.

(Ord. No. 15, art. 10, § 6, 1-19-2010)

Sec. 42-270. - Mineral extraction regulations.

Mining, quarrying or extraction of sand and gravel may be allowed in any "U" Urban Expansion District in accordance with the provisions of article V of this chapter.

(Ord. No. 15, art. 10, § 7, 1-19-2010)

Sec. 42-271. - Density regulations for dwellings.

(a) *Permitted lots.* Not more than two dwelling or dwelling site may be located in any quarter-quarter section.

(1) Each dwelling shall be sited on a separately surveyed and described parcel.

(2) No dwelling shall be sited on land with agricultural crop rating of greater than 70 as determined by the USDA or SCS soils rating.

(3) No dwelling shall be sited in a quarter-quarter section containing two existing dwellings.

(4) No dwelling shall be sited within one-quarter mile of an existing feedlot.

(5) Each dwelling shall front and abut an existing public road for a distance of not less than 66 feet.

(6) Single-family dwellings shall not be sited in any section containing nine or more dwellings sites.

(b) *Lots of record.* It is the intent of this section that the total dwellings per quarter-quarter section shall not exceed one, except that lots of record (as defined in section 42-7) may be built on, subject to the following conditions:

(1) The lot of record must have existed on the date of adoption of the ordinance from which this article is derived.

(2) The lot of record shall conform to the applicable development standards of this article and other county development ordinances.

(3) No dwelling shall be placed on a lot of record containing an existing dwelling.

(Res. No. 06-152, 9-19-2006; Ord. No. 15, art. 10, § 8, 1-19-2010)

Sec. 42-272. - General regulations.

Additional requirements for parking and other regulations in the "U" Urban Expansion District are set forth in division 12 of this article.

(Ord. No. 15, art. 10, § 9, 1-19-2010)

Secs. 42-273—42-292. - Reserved.

DIVISION 8. - "B-1" GENERAL BUSINESS DISTRICT

Sec. 42-293. - Purpose.

The "B-1" General Business District is intended to encourage the concentration of a broad range of individual commercial establishments into an area of general commercial activity serving the daily staple needs of the people in surrounding rural areas. It is further intended that the B-1 district be used to expand the commercial areas in already established unincorporated urban areas.

(Ord. No. 15, art. 11, § 1, 1-19-2010)

Sec. 42-294. - Permitted uses.

In the "B-1" General Business District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises nor shall any land be used in whole or part for other than one or more of the following uses:

(1) Retail stores primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of such merchandise.
    a. Any grocery store, meat market, supermarket, fruit market, or bakery.
    b. Any drug store, apparel shop or store, hardware store, bookstore, stationary store or flower shop.
    c. Any automotive service station.
(2) Personal services generally involving the care of the person or his personal effects.
    a. Any cleaning or laundry establishment, self-service laundry, including any pressing, cleaning or garment repair.
    b. Any dressmaking, millinery, tailor shop or shoe repair shop.
    c. Any beauty shop or barber shop.
    d. Any photographic studio.
    e. Any eating or drinking establishment.
(3) Administrative, business or professional office.
    a. Any bank or savings and loan institution.
    b. Any insurance or real estate agent or broker.
    c. Any professional office, including any physician, dentist, chiropractor, engineer, architect, lawyer or recognized profession.
(4) Entertainment and recreation establishments, including any theater, dance hall, bowling alley, pool or billiard hall.
(5) Any residence when included as an integral part of the principal building to be occupied by the owner or employee.

(Ord. No. 15, art. 11, § 2, 1-19-2010)

Sec. 42-295. - Conditional uses.

In the "B-1" General Business District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of article VIII of this chapter: Any commercial radio and television towers, transmitters, or receivers.

(Ord. No. 15, art. 11, § 3, 1-19-2010)

Sec. 42-296. - Commercial development standards.

Uses established in the "B-1" General Business District shall be operated subject to the following conditions:

(1) Any store or business shall be conducted entirely within a building.

(2) Any public entrance to such store, shop or business shall be from the principal street upon which the property abuts, or within 50 feet thereof, except that a rear entrance from the building to a public parking area may be provided.

(Ord. No. 15, art. 11, § 4, 1-19-2010)

Sec. 42-297. - Accessory uses.

In the "B-1" General Business District, the following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property:

(1) Any building or use customarily necessary to any permitted use, which may include the repair, alteration, finishing assembly, or storage of goods.

(2) Any building or use customarily necessary to any permitted uses, but which will not be detrimental, either by reason of odor, smoke, noise or vibration, to the surrounding neighborhood.

(3) Any temporary building for uses incidental to construction work, provided that such building shall be removed upon the completion of the construction work.

(Ord. No. 15, art. 11, § 5, 1-19-2010)

Sec. 42-298. - Lot size, setback, yard and height requirements.

Any lot in a "B-1" General Business District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

(1) *Lot size and width.* Any lot used as a business shall have an area sufficient in size to provide an adequate and safe water supply and sewage disposal system as established by standards required by state or county health regulations, but shall not be less than 5,000 square feet in area and shall not have a frontage of less than 50 feet.

(2) *Yard requirements.* Every permitted, conditionally permitted or accessory building, and every permitted structure, shall meet the following yard requirements:

a. *Front yard.*

1. A front yard of not less than 45 feet shall be provided as measured from the street right-of-way line.

2. In the event any building is located on a lot at the intersection of two or more roads or highways, such lot shall have a front yard abutting each such road or highway.

b. *Side yard.*

1. No side yard shall be required for any interior lot.

2. For corner lot abutting any agricultural or residential district, a minimum side yard of 45 feet shall be required.

c. *Rear yard.* A rear yard of not less than 20 feet shall be required; where alleys exist the measurements of the rear yard may include one-half the width of the alley.

d. *Setbacks from drainage systems.* There shall be a minimum setback of 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(3) *Height requirement.* Every permitted, conditionally permitted or accessory building shall meet the following height requirements: Any building shall not exceed 35 feet in height.

(4) *Exceptions.* Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in section 42-72.

(Ord. No. 15, art. 11, § 6, 1-19-2010)

Sec. 42-299. - Essential services regulations.

Essential service facilities may be allowed in any "B-1" General Business District in accordance with the provisions of article VIII of this chapter.

(Ord. No. 15, art. 11, § 7, 1-19-2010)

Sec. 42-300. - General regulations.

Additional requirements for parking and other regulations in the "B-1" General Business District are set forth in division 12 of this article.

(Ord. No. 15, art. 11, § 8, 1-19-2010)

Secs. 42-301—42-318. - Reserved.

DIVISION 9. - "B-2" HIGHWAY BUSINESS DISTRICT

Sec. 42-319. - Purpose.

The "B-2" Highway Business District is intended for major retail, service and repair establishments serving a large trade area, usually the entire county or beyond. The trade area population served by these establishments requires easy access, although patronage is more dispersed and visits to these establishments less frequent than in the B-1 district. It is the intent of the B-2 district regulations that establishments desiring location along major traffic routes be grouped with appropriate and adequate accessways provided.

(Ord. No. 15, art. 12, § 1, 1-19-2010)

Sec. 42-320. - Permitted uses.

In the "B-2" Highway Business District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises, nor shall any land be used in whole or part for other than one or more of the following uses:

(1) Motor vehicle and implement sales and service.

a. Any automobile sales or services, car wash, trailer sales or service, auto repair garage or automobile rental.

b. Any motor fuel station.

c. Any agricultural equipment sales or service.

d. Any truck sales or service, truck wash or truck repair garage.

(2) Entertainment and recreation establishments, including any theater, dance hall, bowling alley, pool or billiard hall, public swimming pool, roller or ice rink.

(3) Drive-in establishments, including any drive-in establishment, including banks and restaurants.

(4) Retail or wholesale establishments.

a. Any building supply sales.

b. Any boat sales or repair.

c. Any eating or drinking establishment.

d. Any landscape nursery or commercial greenhouse.

e. Any motel.

f. Any shopping center.

(5) Any residence when included as an integral part of the principal building to be occupied by the owner or his employee.

(6) Assemblage of wood products, such as cabinet making, doors and windows, pallets, and furniture.

a. Manufacturing shall be conducted within buildings not to exceed 10,000 square feet in gross floor area.

b. No equipment, process, or raw material shall be stored or kept outside the confines of a building.

c. No equipment or process shall be used which creates vibration, glare, fumes, odors, or electrical interference detectable beyond the limits of the property.

(Ord. No. 15, art. 12, § 2, 1-19-2010)

Sec. 42-321. - Conditional uses.

In the "B-2" Highway Business District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of article VIII of this chapter:

(1) Any commercial radio and television towers, transmitters or receivers.

(2) Any exterior storage of any raw or finished products.

(Ord. No. 15, art. 12, § 3, 1-19-2010)

Sec. 42-322. - Commercial development standards.

Uses established in the "B-2" Highway Business District shall be operated subject to the following conditions:

(1) Any business, other than motor fuel stations and other automobile or trailer sales, display areas or rental areas, shall be conducted entirely within a building except as permitted by a conditional use permit.

(2) Any public entrance to such store, shop or business shall be from the principal street upon which the property abuts, or within 50 feet thereof, except that a rear entrance from the building to a public parking area may be provided.

(3) Any open air display area, open automobile or truck sales lot, trailer sales lot or farm implement display area shall provide a graveled or aggregate surfaced area, which shall be properly maintained.

(4) Any exterior area used to store conditionally permitted raw or finished products shall be fenced.

a. A fence of sufficient height and length shall be used to totally screen the storage area.

b. The fence shall be solid and of wood or metal construction.

1. Wood shall be either pressure treated with a preservative treatment, cedar, or redwood. All wood material shall be stained or painted.

2. Metal must be a pre-primed and pre-painted material.

3. All fencing must be maintained as necessary to ensure a like new condition.

(Ord. No. 15, art. 12, § 4, 1-19-2010)

Sec. 42-323. - Accessory uses.

In the "B-2" Highway Business District, the following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property:

(1) Any building or use customarily necessary to any permitted use, which may include the repair, alteration, finishing assembly or storage of goods.

(2) Any building or use customarily necessary to any permitted uses, but which will not be detrimental either by reason of odor, smoke, noise or vibration to the surrounding neighborhood.

(3) Any temporary building for uses incidental to construction work, provided that such building shall be removed upon the completion of the construction work.

(Ord. No. 15, art. 12, § 5, 1-19-2010)

Sec. 42-324. - Lot size, setback, yard and height requirements.

Any lot in a "B-2" Highway Business District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

(1) *Lot size and width.* Any lot used as a business shall have an area sufficient in size to provide an adequate and safe water supply and sewage disposal system as established by standards required by state or county health regulations, but shall not be less than 5,000 square feet in area and shall not have a frontage of less than 50 feet.

(2) *Yard requirements.* Every permitted, conditionally permitted or accessory building, and every permitted structure, shall meet the following yard requirements:

a. *Front yard.*

1. A front yard of not less than 45 feet shall be provided as measured from the street right-of-way line.
2. In the event any building is located on a lot at the intersection of two or more roads or highways, such lot shall have a front yard abutting each such road or highway.

b. *Side yard.*

1. No side yard shall be required for any interior lot.
2. For corner lots abutting any agricultural or residential district, a minimum side yard of 45 feet shall be required.

c. *Rear yard.* A rear yard of not less than 20 feet shall be required; where alleys exist the measurements of the rear yard may include one-half the width of the alley.

d. *Setbacks from drainage systems.* There shall be a minimum setback of 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(3) *Height requirements.* Every permitted, conditionally permitted or accessory building shall meet the following height requirements: Any building shall not exceed 35 feet in height.

(4) *Exceptions.* Certain uses are exempted from meeting the lot size, yard and height requirements. These exemptions are listed in section 42-72.

(Ord. No. 15, art. 12, § 6, 1-19-2010)

Sec. 42-325. - Essential services regulations.

Essential service facilities may be allowed in any "B-2" Highway Business District in accordance with the provisions of article VIII of this chapter.

(Ord. No. 15, art. 12, § 7, 1-19-2010)

Sec. 42-326. - General regulations.

Additional requirements for parking and other regulations in the "B-2" Highway Business District are set forth in division 12 of this article.

(Ord. No. 15, art. 12, § 8, 1-19-2010)

Secs. 42-327—42-355. - Reserved.

DIVISION 10. - "I" INDUSTRY DISTRICT

Sec. 42-356. - Purpose.

The "I" Industry District is intended to provide districts that will allow compact, convenient, limited, highway-oriented industry closely related to existing urban areas in the county and at standards that will not impair the traffic-carrying capabilities of abutting roads and highways. It is recognized that industrial uses are an important part of the county's land use patterns. The regulations for this district are intended to encourage industrial development that is compatible with surrounding or abutting districts.

(Ord. No. 15, art. 13, § 1, 1-19-2010)

Sec. 42-357. - "I-1" Light Industrial District; permitted uses.

In the "I-1" Industry District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises, nor shall any land be used in whole or part for other than one or more of the following uses:

(1) Any building materials storage yards.

(2) Any contractor's establishment, storage yard or equipment rental.

(3) Any essential services' building or storage yards.

(4) Any grain elevator, including storage and processing.

(5) Any wholesale establishment, including warehousing and storage buildings.

(Ord. No. 15, art. 13, § 2, 1-19-2010)

Sec. 42-358. - "I-1" Industry District; conditional uses.

In the "I-1" Industry District, the following uses may be allowed, subject to obtaining a conditional use permit in accordance with the provisions of article VIII of this chapter:

(1) Yard waste compost or mixed municipal solid waste compost.

(2) Recycling activities, including sorting and reprocessing.

(3) Any manufacturing process or treatment of products using light machinery, such as tool and die shops, woodworking or metal fabricating plants.

(Ord. No. 15, art. 13, § 3, 1-19-2010)

Sec. 42-359. - "I-2" Industrial District; permitted uses.

In the "I-2" Industrial District, no building, structure or part thereof shall be erected, altered, used or moved upon any premises, nor shall any land be used in whole or part for other than one or more of the following uses:

(1) Any building materials storage yards.

(2) Any contractor's establishment, storage yard or equipment rental.

(3) Any essential services' building or storage yards.

(4) Any grain elevator, including storage and processing.

(5) Any wholesale establishment, including warehousing and storage buildings.

(6) Any manufacture, compounding or treatment of such products as bakery goods, candy, cosmetics, dairy products, food products, drugs, perfumes, pharmaceuticals, soap (cold mix only) or toiletries.

(7) Any manufacture, compounding or treatment of such articles or merchandise, previously prepared materials which have been manufactured elsewhere, including bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, shells, textiles, tobacco, wood (excluding planning mills) yarn or paint, not employing a boiling process.

(8) Any manufacturing process or treatment of products using light machinery, such as tool and die shops or metal fabricating plants.

(Ord. No. 15, art. 13, § 4, 1-19-2010)

Sec. 42-360. - "I-2" Industrial District; conditional uses.

In the "I-2" Industrial District, the following uses may be allowed, subject to obtaining a conditional use permit in accordance with the provisions of article VIII of this chapter:

(1) Any manufacturing of cement, lime, gypsum or plaster.

(2) Any distillation of bone, coal, tar, petroleum, refuse, grain or wood.

(3) Any explosives manufacture or storage.

(4) Fertilizer manufacture, compost or storage.

(5) Commercial laundries or dry cleaning plants.

(6) Any garbage, offal, dead animals, refuse, rancid fats, incineration, glue manufacturing, size or gelative manufacturing where the processes include the refining or recovery of products from animal refuse or offal.

(7) Any junkyard.

(8) Slaughtering of animals or stock yards.

(9) Any petroleum or asphalt refining or manufacturing.

(10) Any smelting or refining of metals from ores.

(11) Any steam board hammers or forging presses.

(12) Any storing, curing or tanning of raw, green or salted hides or skins.

(13) Any site utilized in the storage, blending, processing, packaging, or disposing of one or more of the chemicals listed on the EPA's list of where to store extremely hazardous substances, if those chemicals are in excess of the EPA's threshold planning quantities (excluding sealed containers stored by a retail business or containers stored by an owner or operator to be used on his farm).

(14) Any lawful use of land or building not elsewhere provided for and which by its nature does not, through noise, dirt, soot, offensive odors or unsanitary conditions, constitute either a public or private nuisance.

(Ord. No. 15, art. 13, § 5, 1-19-2010)

Sec. 42-361. - Industrial development standards.

Uses established in the "I" Industry Districts shall be operated subject to the following conditions:

(1) Every use, except storage yards for sections 42-357(1) through (3) and 42-359(1) through (3) shall be conducted entirely within a building except as permitted by a conditional use permit.

(2) Any exterior area used to store conditionally permitted raw or finished products shall be fenced.

   a. A fence of sufficient height and length shall be used to totally screen or secure the storage area.

   b. The fence shall be of wood or metal construction.

      1. Wood shall be either pressure treated with a preservative treatment, cedar or redwood. All wood material shall be stained or painted.

      2. Metal must be a pre-primed and pre-painted material.

      3. All fencing must be maintained as necessary to ensure a like-new condition.

(3) Any site utilized in the storage, blending, processing, packaging or disposing of one or more of the chemicals listed on the EPA's list of extremely hazardous substances, if those chemicals are

in excess of the EPA's threshold planning quantities (excluding sealed containers stored by a retail business or containers stored by an owner or operator to be used on his farm) shall be subject to the following conditions:

a. A hazard assessment must be completed and a county emergency response plan must exist and be reviewed by the planning advisory committee prior to the issuance of a certificate of occupancy. The applicant must provide the volumes and amounts of toxic chemicals, flammable materials and volatile materials which are to be located on site at any one time.

b. Documented assurance that all appropriate state and federal permits are in place prior to occupancy.

c. All bulk loading and unloading facilities shall include containment devices to contain any spills which occur during the loading and unloading of materials as required by state and federal law.

d. Verification of adequate separation of any combination of volatile, flammable, and toxic materials on site as per state and federal standards.

e. Proof of insurance and/or financial responsibility to pay for the cost of clean up of a spill.

f. Provide adequate loading/unloading and off-street parking to prevent parking on public roadways.

g. Provide safe and proper access to the site as per the county rules and in accordance with state guidelines.

(4) Any open storage area shall provide a graveled or aggregate surfaced area which shall be properly maintained.

(Ord. No. 15, art. 13, § 4, 1-19-2010)

Sec. 42-362. - Accessory uses.

In the "I" Industry District, the following accessory use, building or structure customarily incidental to any permitted or conditionally permitted use shall be permitted, provided that such accessory use, building or structure shall be located on the same property:

(1) Any building or use customarily necessary to any permitted use, which may include the repair, alteration, finishing assembly, fabrication or storage of goods.

(2) Any building or use customarily necessary to any permitted uses, but which will not be detrimental, either by reason of odor, smoke, noise or vibration, to the surrounding neighborhood.

(3) Any temporary building for uses incidental to construction work, provided that such building shall be removed upon the completion of the construction work.

(4) Any dwelling unit for employees having duties in connection with any premises requiring residence on the premises.

(Ord. No. 15, art. 13, § 5, 1-19-2010)

Sec. 42-363. - Lot size, setback, yard and height requirements.

Any lot in the "I" Industry District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

(1) *Lot size and width.* Any permitted or conditional use shall have an area sufficient in size to provide an adequate and safe water supply and sewage disposal system as established by standards

required by state or county health regulations, but shall not be less than 10,000 square feet in area and shall not have a frontage of less than 50 feet.

(2) *Yard requirements.* Every permitted, conditionally permitted or accessory building, and every permitted structure, shall meet the following yard requirements:

a. *Front yard.*

1. A front yard of not less than 45 feet shall be provided as measured from the street right-of-way line.

2. In the event any building is located on a lot at the intersection of two or more roads or highways, such lot shall have a front yard abutting each such road or highway.

b. *Side yard.*

1. Every building shall have two side yards. Each side yard shall have a minimum width of 20 feet.

2. For a corner lot abutting any agricultural or residential district, a minimum side yard of 45 feet shall be required.

c. *Rear yard.* A rear yard of not less than 50 feet shall be required.

d. *Setbacks from drainage systems.* There shall be a minimum setback of 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(3) *Height requirements.* Every permitted, conditionally permitted or accessory building shall meet the following height requirements: All buildings shall not exceed 45 feet in height.

(4) *Exceptions.* Certain uses here exempted from meeting the lot size, yard and height requirements. These exemptions are listed in section 42-72.

(Ord. No. 15, art. 13, § 6, 1-19-2010)

Sec. 42-364. - Essential services regulations.

Essential service facilities may be allowed in any "I" Industry District in accordance with the provisions of article VIII of this chapter.

(Ord. No. 15, art. 13, § 7, 1-19-2010)

Sec. 42-365. - General regulations.

Additional requirements for parking and other regulations in the "I" Industry District are set forth in division 12 of this article.

(Ord. No. 15, art. 13, § 8, 1-19-2010)

Secs. 42-366—42-388. - Reserved.

DIVISION 11. - "FP" FLOODPLAIN DISTRICT

Sec. 42-389. - Statutory authorization, findings of fact and purpose.

(a) *Statutory authorization.* The legislature of the state has, in M.S.A. chs. 103F and 394, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(b) *Purpose.*

(1) This division regulates development in the flood hazard areas of the county. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this division to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(2) National Flood Insurance Program compliance. The ordinance from which this division is derived is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59—78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(3) This division is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitats, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Ord. No. 15, art. 5, § 1, 1-19-2010)

Sec. 42-390. - General provisions.

(a) *How to use this division.* This division adopts the floodplain maps applicable to the county and includes three floodplain districts: floodway, flood fringe, and general floodplain.

(1) Where floodway and flood fringe districts are delineated on the floodplain maps, the standards in section 42-392 or 42-393 will apply, depending on the location of a property.

(2) Locations where floodway and flood fringe districts are not delineated on the floodplain maps are considered to fall within the general floodplain district. Within the general floodplain district, the floodway district standards in section 42-392 apply unless the floodway boundary is determined, according to the process outlined in section 42-394. Once the floodway boundary is determined, the flood fringe district standards in section 42-393 may apply outside the floodway.

(b) *Lands to which division applies.* This division applies to all lands within the jurisdiction of the county shown on the official zoning map and/or the attachments to the map as being located within the boundaries of the floodway, flood fringe, or general floodplain districts. The floodway, flood fringe and general floodplain districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this division. In case of a conflict, the more restrictive standards will apply.

(c) *Incorporation of maps by reference.* The following maps, together with all attached material, are hereby adopted by reference and declared to be a part of the official zoning map and this division. The attached material includes the flood insurance study for the county, and incorporated areas, and the flood insurance rate map index for the county and incorporated areas, all dated November 19, 2014, and prepared by the Federal Emergency Management Agency. These materials are on file in the county environmental services, county auditor's, and the recorder's offices.

(d) *Regulatory flood protection elevation.* The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(e) *Interpretation.* The boundaries of the zoning districts are determined by scaling distances on the flood insurance rate map.

(1) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The zoning administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

(2) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the county board of adjustment and to submit technical evidence.

(f) *Abrogation and greater restrictions.* It is not intended by this division to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this division imposes greater restrictions, the provisions of this division prevail. All other ordinances inconsistent with this division are hereby repealed to the extent of the inconsistency only.

(g) *Warning and disclaimer of liability.* This division does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This division does not create liability on the part of the county or its officers or employees for any flood damages that result from reliance on this division or any administrative decision lawfully made hereunder.

(h) *Definitions.* Unless specifically defined below, words or phrases used in this division must be interpreted according to common usage and so as to give this division its most reasonable application.

100-year floodplain means lands inundated by the regional flood (see *Regional flood*).

Accessory use or structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Base flood elevation means the elevation of the regional flood. The term "base flood elevation" is used in the flood insurance survey.

Basement means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

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

(1) Certain conditions as detailed in the zoning ordinance exist.

(2) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Development means any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Equal degree of encroachment means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Farm fence means a fence as defined by M.S.A. § 344.02(1)(a) through (d). An open type fence of posts and wire is not considered to be a structure under this division. Fences that have the potential to obstruct flood flows, such as chainlink fences and rigid walls, are regulated as structures under this division.

Flood means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake which results in the inundation of normally dry areas.

Flood frequency means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood fringe means that portion of the floodplain outside of the floodway. The term "flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study for the county.

Floodplain means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Floodprone area means any land susceptible to being inundated by water from any source (see *Flood*).

Floodproofing means a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

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

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

Obstruction means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal use or structure means all uses or structures that are not accessory uses or structures.

Reach is a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

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

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

Regulatory flood protection elevation (RFPE) means an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Special flood hazard area is a term used for flood insurance purposes synonymous with the term "100-year floodplain."

Structure means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in section 42-398 and other similar items.

Substantial damage means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means, within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. For the purpose of this division, the term "historic structure" is as defined in 44 CFR 59.1.

(i) *Detachments.* The flood insurance rate map panels adopted by reference into subsection (c) of this section will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of the ordinance from which this division is derived. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of the county after the date of adoption of the ordinance from which this division is derived, the newly detached floodplain lands will be subject to the provisions of this division immediately upon the date of detachment.

(Ord. No. 15, art. 5, § 2, 1-19-2010; Ord. No. 15.103, § 2.0, 10-7-2014)

Sec. 42-391. - Establishment of zoning districts.

(a) *Districts.*

(1) *Floodway district.* The floodway district includes those areas designated as floodway on the flood insurance rate map adopted in section 42-390(c). For lakes, wetlands and other basins, the floodway district shall include those areas designated as Zone A and Zone AE (that do not have a floodway designated) on the flood insurance rate map adopted in section 42-390(c) that are at or below the ordinary high water level as defined in M.S.A. § 103G.005(14).

(2) *Flood fringe district.* The flood fringe district includes those areas designated as floodway fringe on the flood insurance rate map adopted in section 42-390(c), as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins (that do not have a floodway designated), the flood fringe district includes those areas designated as Zone AE on the flood insurance rate map panels adopted in section 42-390(c) that are below the one percent annual chance (100-year) flood elevation but above the ordinary high water level as defined in M.S.A. § 103G.005(14).

(3) *General floodplain district.* The general floodplain district includes those areas designated as Zone A or Zone AE without a floodway on the flood insurance rate map adopted in section 42-390(c), but not subject to the criteria in subsection (a)(1) and (2) of this section.

(b) *Compliance.* Within the floodplain districts established in this division, the:

(1) Use of any land;

(2) Use, size, type and location of structures on lots;

(3) Installation and maintenance of transportation, utilities, including water supply;

are subject to county and all other applicable regulations.

(c) *Uses.* Uses not listed as permitted uses or conditional uses in sections 42-392, 42-393 and 42-394, respectively, are prohibited. In addition, a caution is provided here that:

(1) New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this division and specifically section 42-398.

(2) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this division and specifically section 42-401.

(3) As-built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional

engineer or architect as specified in the general provisions of this division and specifically as stated in section 42-399.

(Ord. No. 15, art. 5, § 3, 1-19-2010; Ord. No. 15.103, § 3.0, 10-7-2014)

Sec. 42-392. - Floodway district (FW).

(a) *Permitted uses.* The following uses, subject to the standards set forth in subsection (b) of this section, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

(1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(2) Industrial-commercial loading areas, parking areas, and airport landing strips.

(3) Open space uses, including, but not limited to, private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single- or multiple-purpose recreational trails.

(4) Residential lawns, gardens, parking areas, and play areas.

(5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the department of natural resources' area hydrologist is notified at least ten days prior to the issuance of any permit, and that the standards in subsections (d)(1), (d)(3)a and (d)(6) of this section are met.

(b) *Standards for floodway permitted uses.*

(1) The use must have a low flood damage potential.

(2) With the exception of the uses listed in subsection (a)(5) of this section, the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(3) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (one percent chance) flood.

(c) *Conditional uses.* The following uses may be allowed as conditional uses following the standards and procedures set forth in section 42-399(d), and further subject to the standards set forth in subsection (d) of this section, if otherwise allowed in the underlying zoning district or any applicable overlay district:

(1) Structures accessory to the uses listed in subsection (a) of this section and the uses listed in subsections (c)(2) through (7) of this section.

(2) Extraction and storage of sand, gravel, and other materials.

(3) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(4) Storage yards for equipment, machinery, or materials.

(5) Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in section 42-390(h), are permitted uses.

(6) Travel-ready recreational vehicles meeting the exception standards in section 42-397(b)(3).

(7) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

(d) *Standards for floodway conditional uses.*

(1) *All uses.* A conditional use must not cause any increase in the stage of the one percent chance or regional flood or cause an increase in flood damages in the reaches affected.

(2) *Fill; storage of materials and equipment.*

a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

b. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

c. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the one percent chance or regional flood may only be allowed if the county board has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

(3) *Accessory structures.*

a. Accessory structures must not be designed for human habitation.

b. Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.

1. Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and

2. So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.

c. Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 (Minn. Admin. Rules ch. 1335) floodproofing classifications in the state building code. All floodproofed accessory structures must meet the following additional standards:

1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and

2. Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.

d. As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the state building code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:

1. To allow for the equalization of hydrostatic pressure, there must be a minimum of two automatic openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

2. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(4) *Flood control.* Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of M.S.A. § 103G.245.

(5) *Levees, dikes, floodwalls.* A levee, dike or floodwall constructed in the floodway must not cause an increase to the one percent chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(6) *Floodway development.* Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(Ord. No. 15, art. 5, § 4, 1-19-2010; Ord. No. 15.103, § 4.0, 10-7-2014)

Sec. 42-393. - Flood fringe district (FF).

(a) *Permitted uses.* Permitted uses are those uses of land or structures allowed in the underlying zoning districts that comply with the standards in subsections (b) of this section. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use, provided it does not constitute a public nuisance.

(b) *Standards for flood fringe permitted uses.*

(1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with section 42-392(d)(3).

(2) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with subsection (b)(1) of this section, or if allowed as a conditional use under subsection (c)(3) of this section.

(3) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

(4) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(5) Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

(6) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the county board.

(7) Accessory uses, such as yards, railroad tracks, and parking lots, may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (one percent chance) flood.

(8) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

(9) Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(10) Manufactured homes and recreational vehicles must meet the standards of section 42-397.

(c) *Conditional uses.* The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning districts or any applicable overlay district, following the procedures in section 42-399(d). Conditional uses must meet the standards in section 42-392(d) and subsection (d) of this section.

(1) Any structure that is not elevated on fill or floodproofed in accordance with subsection (b)(1) of this section.

(2) Storage of any material or equipment below the regulatory flood protection elevation.

(3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with subsection (b)(1) of this section.

(d) *Standards for flood fringe conditional uses.*

(1) The standards listed in section 42-392(d) apply to all conditional uses.

(2) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas, such as crawl spaces or tuck-under garages. The base or floor of an enclosed area is considered above-grade and not a structure's basement or lowest floor if:

a. The enclosed area is above-grade on at least one side of the structure;

b. It is designed to internally flood and is constructed with flood-resistant materials; and

c. It is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:

1. *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment, including ductwork, and other service facilities are placed at or above the regulatory flood protection elevation or are designed to prevent floodwater from entering or accumulating within these components during times of flooding.

2. *Specific standards for above-grade, enclosed areas.* Above-grade, fully enclosed areas, such as crawl spaces or tuck under garages, must be designed to internally flood. The design plans must stipulate:

(i) A minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There must be a minimum of two openings on at least two sides of the structure and the bottom of all openings must be a maximum of one foot above grade. The automatic openings must have a net area of at least one square inch for every square foot of enclosed area subject to flooding, unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and

(ii) That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and will be used solely for building access, parking of vehicles, or storage.

(3) Basements, as defined by section 42-390(h), are subject to the following:

a. Residential basement construction is not allowed below the regulatory flood protection elevation.

b. Nonresidential basements may be allowed below the regulatory flood protection elevation, provided the basement is structurally dry floodproofed in accordance with subsection (d)(4) of this section.

(4) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the state building code, which requires making the

structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.

(5) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

a. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (one percent chance) flood event.

b. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the county board.

c. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(6) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

(Ord. No. 15, art. 5, § 5, 1-19-2010; Ord. No. 15.103, § 5.0, 10-7-2014)

Sec. 42-394. - General floodplain district.

(a) *Permitted uses.*

(1) The uses listed in section 42-392(a), floodway district permitted uses, are permitted uses.

(2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in subsection (b) of this section. Section 42-392 applies if the proposed use is determined to be in the floodway district. Section 42-393 applies if the proposed use is determined to be in the flood fringe district.

(b) *Procedures for floodway and flood fringe determinations.*

(1) Upon receipt of an application for a permit or other approval within the general floodplain district, the zoning administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

(2) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the floodway or flood fringe district. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in subsection (b)(3) of this section.

(3) The determination of floodway and flood fringe must include the following components, as applicable:

a. Estimate the peak discharge of the regional (one percent chance) flood.

b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

(4) The zoning administrator will review the submitted information and assess the technical evaluation and the recommended floodway and/or flood fringe district boundary. The assessment must include the cumulative effects of previous floodway encroachments. The zoning

administrator may seek technical assistance from a designated engineer or other expert person or agency, including the department of natural resources. Based on this assessment, the zoning administrator may approve or deny the application.

(5) Once the floodway and flood fringe district boundaries have been determined, the zoning administrator must process the permit application consistent with the applicable provisions of sections 42-392 and 42-393.

(Ord. No. 15, art. 5, § 6, 1-19-2010; Ord. No. 15.103, § 6.0, 10-7-2014)

Sec. 42-395. - Limits of drainage areas.

The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the commissioner of the state department of natural resources.

Sec. 42-396. - Subdivisions.

(a) *Generally.* Recognizing that floodprone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the county.

(b) *Prohibited.* No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this division.

(1) All lots within the floodplain districts must be able to contain a building site outside of the floodway district at or above the regulatory flood protection elevation.

(2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (one percent chance) flood has been approved by the county board. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

(3) For all subdivisions in the floodplain, the floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

(4) In the general floodplain district, applicants must provide the information required in section 42-394(b) to determine the regional flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.

(5) If a subdivision proposal or other proposed new development is in a floodprone area, any such proposal must be reviewed to ensure that:

a. All such proposals are consistent with the need to minimize flood damage within the floodprone area;

b. All public utilities and facilities, such as sewer, gas, electrical, and water supply systems, are located and constructed to minimize or eliminate flood damage; and

c. Adequate drainage is provided to reduce exposure of flood hazard.

(c) *Building sites.* If a proposed building site is in a floodprone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

(1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Constructed with materials and utility equipment resistant to flood damage;

(3) Constructed by methods and practices that minimize flood damage; and

(4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. No. 15, art. 5, § 7, 1-19-2010; Ord. No. 15.103, § 7.0, 10-7-2014)

Sec. 42-397. - Public utilities, railroads, roads, and bridges.

(a) *Public utilities.* All public utilities and facilities, such as gas, electrical, sewer, and water supply systems, to be located in the floodplain must be floodproofed in accordance with the state building code or elevated to the regulatory flood protection elevation.

(b) *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain must comply with sections 42-392 and 42-393. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety, or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(c) *On-site water supply and sewage treatment systems.*

(1) Where public utilities are not provided:

a. On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and

b. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and they must not be subject to impairment or contamination during times of flooding.

(2) Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this section.

(Ord. No. 15, art. 5, § 8, 1-19-2010; Ord. No. 15.103, § 8.0, 10-7-2014)

Sec. 42-398. - Manufactured homes and manufactured home parks and placement of travel trailers and travel vehicles.

(a) *Manufactured homes.* New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

(1) Placement or replacement of manufactured home units is prohibited in the floodway district.

(2) If allowed in the flood fringe district, placement or replacement of manufactured home units is subject to the requirements of section 42-393 and the following standards:

a. New and replacement manufactured homes must be elevated in compliance with section 42-393 and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

b. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in section 42-396(b)(2).

(b) *Recreational vehicles.* New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this division.

(1) Recreational vehicles are exempt from the provisions of this division if they are placed in any of the following areas and meet the criteria listed in subsection (b)(2) of this section:

a. Individual lots or parcels of record.

b. Existing commercial recreational vehicle parks or campgrounds.

c. Existing condominium-type associations.

(2) Criteria for exempt recreational vehicles.

a. The vehicle must have a current license required for highway use.

b. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

c. No permanent structural type additions may be attached to the vehicle.

d. The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.

e. Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in subsection (a)(2) of this section.

f. An accessory structure must constitute a minimal investment

(3) Recreational vehicles that are exempt in subsection (b)(2) of this section lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure, such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of section 42-393. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(Ord. No. 15, art. 5, § 9, 1-19-2010; Ord. No. 15.103, § 9.0, 10-7-2014)

Sec. 42-399. - Administration.

(a) *Zoning administrator.* A zoning administrator or other official designated by the county board must administer and enforce this division.

(b) *Permit requirements.*

(1) *Permit required.* A permit must be obtained from the zoning administrator prior to conducting the following activities:

a. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this chapter.

b. The use or change of use of a building, structure, or land.

c. The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this division.

d. The change or extension of a nonconforming use.

e. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

f. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

g. Relocation or alteration of a watercourse, unless a public waters work permit has been applied for.

h. Any other type of development, as defined in this chapter.

(2) *Application for permit.* Permit applications must be submitted to the zoning administrator on forms provided by the zoning administrator. The permit application must include the following, as applicable:

a. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

b. Location of fill or storage of materials in relation to the stream channel.

c. Copies of any required municipal, county, state or federal permits or approvals.

d. Other relevant information requested by the zoning administrator as necessary to properly evaluate the permit application.

(3) *Certificate of zoning compliance for a new, altered, or nonconforming use.* No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the zoning administrator stating that the use of the building or land conforms to the requirements of this division.

(4) *Certification.* The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this division. Floodproofing measures must be certified by a registered professional engineer or registered architect.

(5) *Record of first floor elevation.* The zoning administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The zoning administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(6) *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the zoning administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S.A. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(7) *Notification to FEMA when physical changes increase or decrease base flood elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(c) *Variances.*

(1) *Variance applications.* An application for a variance to the provisions of this division will be processed and reviewed in accordance with applicable state statutes and article XII of this chapter.

(2) *Adherence to state floodplain management standards.* A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(3) *Additional variance criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

a. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

b. Variances may only be issued by a community upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) *Flood insurance notice.* The zoning administrator must notify the applicant for a variance that:

a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

b. Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

(5) *General considerations.* The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

a. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

b. The danger that materials may be swept onto other lands or downstream to the injury of others;

c. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

d. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

e. The importance of the services to be provided by the proposed use to the community;

f. The requirements of the facility for a waterfront location;

g. The availability of viable alternative locations for the proposed use that are not subject to flooding;

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

i. The relationship of the proposed use to the comprehensive land use plan and floodplain management program for the area;

j. The safety of access to the property in times of flood for ordinary and emergency vehicles;

k. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

(6) *Submittal of hearing notices to the department of natural resources (DNR).* The zoning administrator must submit hearing notices for proposed variances to the DNR sufficiently in

advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(7) *Submittal of final decisions to the DNR.* A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(8) *Recordkeeping.* The zoning administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(d) *Conditional uses.*

(1) *Administrative review.* An application for a conditional use permit under the provisions of this division will be processed and reviewed in accordance with article VIII of this chapter.

(2) *Factors used in decision-making.* In passing upon conditional use applications, the county board must consider all relevant factors specified in other sections of this division, and those factors identified in subsection (c)(5) of this section.

(3) *Conditions attached to conditional use permits.* The county board may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this division. Such conditions may include, but are not limited to, the following:

a. Modification of waste treatment and water supply facilities.

b. Limitations on period of use, occupancy, and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

e. Floodproofing measures, in accordance with the state building code and this division. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(4) *Submittal of hearing notices to the department of natural resources (DNR).* The zoning administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(5) *Submittal of final decisions to the DNR.* A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(Ord. No. 15, art. 5, § 10, 1-19-2010; Ord. No. 15.103, § 10.0, 10-7-2014)

Sec. 42-400. - Conditional use permits.

Applications for conditional uses shall be processed and heard in the manner specified in article VIII of this chapter, except the following additional requirements shall apply to conditional uses in the floodplain:

(1) *Notification to commissioner.* Upon filing with the zoning administrator an application for a conditional use permit, the zoning administrator shall submit by mail to the commissioner of the state department of natural resources a copy of the application, sufficiently in advance so that said commissioner will receive at least ten days' notice prior to the hearing. A copy of all decisions granting conditional use permits shall be forwarded to said commissioner within ten days of such action.

a. *Procedures to be followed by the county board in passing on conditional use permit applications within all floodplain districts.* Based on the technical evaluation of the designated engineer or expert, the county board shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

b. *Factors upon which the decision of the county board shall be based.* In passing upon conditional use applications, the county board shall consider all relevant factors specified in other sections of this division, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts, or other hydraulic structures.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
12. Such other factors which are relevant to the purposes of this division.

(2) *Conditions attached to conditional use permits.* Upon consideration of the factors listed above and the purpose of this division, the county board shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this division. Such conditions may include, but are not limited to, the following:

a. Modification of waste treatment and water supply facilities.

b. Limitations on period of use, occupancy, and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

e. Floodproofing measures, in accordance with the state building code and this division. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(Ord. No. 15, art. 5, § 11, 1-19-2010)

Sec. 42-401. - Nonconforming uses.

A use, structure, or occupancy of land which was lawful before the passage or amendment of this article but which is not in conformity with the provisions of this division may be continued subject to the following conditions. Historic structures, as defined in 44 CFR 59.1, are subject to the provisions of this section.

(1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity. Expansion or enlargement of uses, structures or occupancies within the floodway district is prohibited.

(2) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in subsections (3) through (7) of this section.

(3) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure may not exceed 50 percent of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs, such as construction materials, and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of section 42-392 or 42-393 for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively.

(4) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this division. The assessor must notify the zoning administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

(5) If any nonconformity is substantially damaged, as defined in section 42-390(h), it may not be reconstructed except in conformity with the provisions of this division. The applicable provisions for establishing new uses or new structures in section 42-392 or 42-393 will apply depending upon whether the use or structure is in the floodway or flood fringe district, respectively.

(6) If any nonconforming use or structure experiences a repetitive loss, as defined in section 42-390(h), it must not be reconstructed except in conformity with the provisions of this division.

(7) Any substantial improvement, as defined in section 42-390, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of section 42-392 or 42-393 for new structures, depending upon whether the structure is in the floodway or flood fringe district.

(Ord. No. 15, art. 5, § 12, 1-19-2010; Ord. No. 15.103, § 11.0, 10-7-2014)

Sec. 42-402. - Penalties for violation.

(a) *Violation constitutes a misdemeanor.* Violation of the provisions of this division or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

(b) *Other lawful action.* Nothing in this division restricts the county board from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the zoning administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this division and will be prosecuted accordingly.

(c) *Enforcement.* Violations of the provisions of this division will be investigated and resolved in accordance with the provisions of article XIII of this chapter. In responding to a suspected ordinance violation, the zoning administrator and county board may utilize the full array of enforcement actions

available to it, including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The county must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(Ord. No. 15, art. 5, § 13, 1-19-2010; Ord. No. 15.103, § 12.0, 10-7-2014)

Sec. 42-403. - Amendments.

(a) *Floodplain designation; restrictions on removal.* The floodplain designation on the official zoning map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the commissioner of the state department of natural resources (DNR) if the commissioner determines that, through other measures, lands are adequately protected for the intended use.

(b) *Amendments require DNR approval.* All amendments to this division must be submitted to and approved by the commissioner of the state department of natural resources (DNR) prior to adoption. Said commissioner must approve the amendment prior to community approval.

(c) *Map revisions require ordinance amendments.* The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in section 42-390(c).

(Ord. No. 15, art. 5, § 14, 1-19-2010; Ord. No. 15.103, § 13.0, 10-7-2014)

Secs. 42-404—42-432. - Reserved.

DIVISION 12. - PARKING AND LOADING REQUIREMENTS

Sec. 42-433. - Off-street loading requirements.

On the premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interferences with public use of the streets or alleys. Such space, unless otherwise adequately provided for, shall include a ten-foot by 25-foot loading space, with a 14-foot height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of building floor use or land use for the above-mentioned purposes.

(Ord. No. 15, art. 4, § 14, 1-19-2010)

Sec. 42-434. - Off-street parking requirements.

In all zoning districts, off-street parking facilities for the storage of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings or structures hereafter erected, altered or extended after the effective date of the ordinance from which this division is derived shall be provided and maintained as herein prescribed.

(1) Loading space as required in section 42-433 shall not be construed as supplying off-street parking space.

(2) When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

(3) Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of the ordinance from which this division is derived, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.

(4) For the purpose of this section, the term "floor area," in case of offices, merchandising or service types of uses, means the gross floor area used or intended to be used for services to the public as customers, patrons, clients or patients as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise.

(5) Off-street parking facilities for one- and two-family dwellings shall be provided and located on the same lot or plat of ground as the building they are intended to serve.

(6) The location of required off-street parking facilities for other than one- and two-family dwellings and all multiple dwellings shall be within 300 feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building or structure.

(7) In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a use which is so mentioned and which said use is similar shall apply.

(8) Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses provided collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with this section.

(9) Nothing in this section shall prevent the extension of, or an addition to, a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area, or an additional area within 300 feet of such building.

(10) The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above shall be determined in accordance with the following table, and the space so required shall be stated in the application for a building and zoning permit and shall be irrevocably reserved for such use.

Use	Required Parking Space
One- and two-family dwellings or mixed occupancy buildings.	Two parking spaces for each dwelling unit, the area of which may include driveways.
Multiple dwellings or apartment houses, efficiency apartment or single-family terrace dwelling.	1.5 parking spaces for each dwelling unit.
Tourist homes, motels.	One parking space for each guest or sleeping room or suite in a tourist home or motel, plus two additional parking spaces for management and/or service personnel.

Hospitals, sanitarium, convalescent homes, homes for the aged, or dormitory.	One parking space for three beds plus one parking space for each two employees.
Orphanage and institutions of a philanthropic and charitable nature and similar uses.	One parking space for each ten beds.
Hotels.	One parking space for each two guest rooms, plus one additional space for each three employees.
Fraternities, boarding and rooming houses.	One parking space for each guest bedroom, plus two additional spaces for owner or management.
Libraries, museums, post offices, and other similar uses.	Provide about each building an improved area other than the front yard which shall be not less in size than two times the floor space of the building.
Theaters and auditoriums other than incidental to a school.	One parking space for each four seats, plus additional spaces equal in number to 50 percent of the number of all employees of the theater.
Churches, auditoriums incidental to schools.	One parking space for each four seats in the main assembly unit.
Schools.	One parking space for each two employees (including teachers and administrators), plus sufficient off-street space for the convenient loading and unloading of students.
Dance halls, pool and billiard rooms, assembly halls and exhibition halls without fixed seats. Community centers, civic clubs, fraternal orders, union halls and similar uses.	One parking space for each four people allowed within the maximum occupancy load as established by the fire marshal.
Stadiums and sports arenas.	One parking space for each four seats.
Bowling alleys.	Six parking spaces for each alley.

Mortuaries or funeral homes.	One parking space for each 50 square feet of floor space in the slumber rooms, parlors, or individual funeral service rooms.
Establishments for sale and consumption on the premises of alcoholic beverages, food or refreshments.	One parking space for each 100 square feet of floor area, plus one parking space for each two employees.
Drive-in restaurants and roadside stands.	One parking space for each 15 square feet of ground floor area of the building.
Medical or dental clinics, banks, business or professional offices.	One parking space for each 200 square feet of floor area.
Drive-in banks.	Four parking spaces for each teller window and one parking space for each 200 square feet of floor area.
Furniture and appliance stores, personal service shops (not including beauty or barber shops), household equipment or furniture repair shops, clothing, shoe repair or service shops, wholesale stores and machinery sales.	One parking space for each 500 square feet of floor area.
Beauty parlors and barber shops.	Two parking spaces for each barber and/or beauty shop chair.
All retail stores, except as otherwise specified herein.	One parking space for each 100 square feet of floor area.
Service garages, automobile salesrooms or automobile repair.	One parking space for each two of the maximum number of employees on duty at any one time, plus one parking space for each of the maximum number of salesmen on duty at any one time, plus one parking space each for the owner and/or management on duty at any one time, plus two parking spaces for each stall in a repair shop, plus one parking space for each stall or service area or wash rack in a servicing or repair shop.
Gasoline service station.	One parking space for each employee, plus one parking space for the owner and/or management plus two parking

	spaces for each grease rack, stall for servicing automobiles or wash rack.
Industrial establishments, including manufacturing, research and testing laboratories, creameries, bottling works, printing and engraving shops, warehousing and storage buildings.	Provide about each establishment, an improved area in addition to the front yard, which shall be sufficient in size to provide adequate facilities for the parking of automobiles and other motor vehicles used by the firm or employees or person doing business therein, such space shall not be less than one parking space for each three employees computed on the basis of the greatest number of persons to be employed at any one period during the day or night.

(Ord. No. 15, art. 4, § 15, 1-19-2010)

Sec. 42-435. - Standards for off-street parking facilities.

In all districts where off-street parking is required, such off-street parking shall be constructed and maintained according to the following standards:

(1) Adequate ingress and egress shall be provided in accordance with a plan submitted to be approved by the planning and zoning administrator.

(2) Such parking lots shall be maintained in a usable dustproof condition, and shall be kept graded and drained to dispose of surface water.

(3) Whenever such parking lot boundary adjoins property zoned for residential use, a setback of eight feet from said lot line shall be required.

(4) Necessary curbs or other protections against damage to adjoining properties, streets and sidewalks shall be provided and maintained.

(5) Plans for the construction of any such parking lot must be approved by the planning and zoning administrator.

(Ord. No. 15, art. 4, § 16, 1-19-2010)

Secs. 42-436—42-453. - Reserved.

ARTICLE III. - ENVIRONMENTAL REVIEW PROGRAM

Sec. 42-454. - State law and rules adopted.

Pursuant to M.S.A. § 394.25(8), the county board of commissioners adopts by reference Minn. Admin. Rules ch. 4410 and the terms used in M.S.A. ch. 116D, state environmental policy. Provisions of these rules and terms shall be as much a part of this article as if they had been set out in full herein when adopted by this reference.

(Ord. No. 15, art. 4, § 22, 1-19-2010)

Sec. 42-455. - Cost of preparation and review.

(a) *Information to be provided.* The applicant for a permit for any action for which environmental documents are required, either by state law or rules or by the county board, shall supply, in the manner prescribed by the county planning and zoning administrator, all unprivileged data or information reasonably requested by the county that the applicant has in his possession or to which he has reasonable access.

(b) *Environmental assessment worksheets.* The applicant for a permit for any action for which an environmental assessment worksheet (EAW) is required, either by state law or rules or by the county board, shall pay all costs of preparation and review of the EAW, and, upon the request of and in the manner prescribed by the administrator, shall prepare a draft EAW and supply all information necessary to complete that document.

(c) *Environmental impact statement.* The county and the applicant for a permit for any action for which an environmental impact statement (EIS) is required shall comply with the provisions of the Rules Governing Assessment of Costs for Environmental Impact Statements, one copy of which is on file in the office of the county auditor, unless the applicant and the county board provide otherwise by a written agreement.

(d) *Payment of costs.* No permit for an action for which an EAW or an EIS is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied, and until the environmental review process has been completed as provided in this article and the rules adopted by reference by this article, and pursuant to any written agreement entered into by the applicant for the permit and the county board under the provision of subsection (e) of this section.

(e) *Agreements concerning cost of preparation and review.* The applicants for a permit for any action for which an EAW or EIS is required and the county board may, in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS as provided in Minn. Admin. Rules ch. 4410.

(Ord. No. 15, art. 4, § 22, 1-19-2010)

Sec. 42-456. - Administration.

(a) The county planning and zoning administrator shall be the person for determining whether an action for which a permit is required is an action for which an EAW is mandatory under Minn. Admin. Rules ch. 4410. The administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of this article and shall notify the planning commission and the county board of these proposed actions.

(b) The administrator shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under Minn. Admin. Rules ch. 4410. The administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of this article and shall notify the planning commission and the county board of these proposed actions.

(c) All EAWs and EISs shall be prepared under the supervision of the administrator reviewed by the planning commission and reviewed and approved by the county board.

(d) When reviewing an EAW or EIS, the administrator and the planning commission may suggest design alterations which would lessen the environmental impact of the action. The county board may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.

(e) After an EAW is prepared, the planning commission shall review the EAW and recommend to the county board whether or not it should require the preparation of an EIS. The county board shall require an EIS when it finds under Minn. Admin. Rules ch. 4410 that an action is major and has potential for significant environmental effects.

(Ord. No. 15, art. 4, § 22, 1-19-2010)

Sec. 42-457. - Optional environmental assessment worksheet.

The county board may, upon recommendation by the administrator, require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required:

(1) Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?

(2) Is the action likely to have disruptive effects, such as generating traffic and noise?

(3) Are there public questions or controversy concerning the environmental effects of the proposed actions?

(Ord. No. 15, art. 4, § 22, 1-19-2010)

Sec. 42-458. - Enforcement and penalty.

(a) No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this article are completed.

(b) Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $500.00 or imprisonment for 90 days, or both. Each day that the violation is permitted to exist constitutes a separate offense.

(c) No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this article are fully complied with.

(Ord. No. 15, art. 4, § 22, 1-19-2010)

Secs. 42-459—42-484. - Reserved.

ARTICLE IV. - EXCAVATION OF MINERAL MATERIAL

Sec. 42-485. - Purpose.

All excavations, extraction of materials and minerals, open pits and impounding of waters hereafter established or enlarged shall conform with the provisions of this article.

(Ord. No. 15, art. 15, § 1, 1-19-2010)

Sec. 42-486. - Definitions.

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

Excavations means any artificial excavation of the earth, within the county, dug, excavated, or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth. Excavation ancillary to building construction is exempt from the provisions of this article if a permit has been issued for such construction. Excavations not exceeding 50 square feet of surface area or two feet in depth and excavations, including impounding of water for agricultural purposes, are exempted.

(Ord. No. 15, art. 15, § 2, 1-19-2010)

Sec. 42-487. - Excavations requiring a conditional use permit.

(a) The following uses shall require a conditional use permit as per article VIII of this chapter:
    (1) Excavations in a shoreline district.
    (2) Excavations within 100 feet of property line.
    (3) Crushing operation within 1,000 feet of residence on neighboring property.
    (4) Any ready-mix or hot mix plant.
    (5) Any storage or accumulations of any amount of demolition materials, including cement, blacktop, brick, block, tile, or like materials, whether temporary or permanent.

(b) Uses nonconforming to this section shall be brought into conforming status within two years of adoption of the ordinance from which this article is derived. Compliance date is October 21, 2009.

(Ord. No. 15, art. 15, § 3, 1-19-2010)

Sec. 42-488. - Application.

Excavation operated pursuant to this article shall furnish the following information when applying for either a conditional use permit or permit to operate:

(1) Applicant's name and address.
(2) Description of the tract of land and the number of acres to be mined by the applicant.
(3) A statement that the applicant has the right by ownership or lease to mine and to reclaim that land described.
(4) A statement containing an estimate of the life expectancy of the proposed operation. The estimate shall include a starting and completion date.

(Ord. No. 15, art. 15, § 4, 1-19-2010)

Sec. 42-489. - Conditions of permit.

The county, as a prerequisite to the granting of a permit or after a permit has been granted, may require the applicant to whom such permit is issued or the owner or user of the property on which the open pit or excavation or impounded waters are located to:

(1) Properly fence any pit or excavation.
(2) Slope the banks and otherwise properly guard and keep any pit or excavating in such condition as not be dangerous from caving or sliding banks.
(3) Properly drain, fill or level any pit or excavation, after created, so as to make the same safe and healthful.

(4) Keep any pit, excavation or impounded waters within the limits for which the particular permit is granted.

(5) Remove excavated material from any pit or excavation, away from the premises, upon and along such highways, streets or other public ways as the county shall order and direct.

(6) Provide for the reconstruction of highway, street or other public way which may be damaged due to transportation of materials from any pit or excavation.

(7) Grade site after extraction is completed so as to render it usable, seeding where required to avoid erosion and an unsightly mar on the landscape.

(8) Pile overburden on strippings in such a manner that it will allow mowing and/or spraying equipment to control noxious weeds.

(Ord. No. 15, art. 15, § 5, 1-19-2010)

Sec. 42-490. - Bond may be required.

The board of county commissioners may require either the applicant or the owner or user of the property on which the open pit or excavation or impounded waters is located to post a bond, in such form and sum as the board shall determine, with sufficient surety running to the county, conditioned to pay the county the extraordinary cost and expense of repairing from time to time any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the county engineer; and conditioned further to comply with all the requirements of this article and the particular permit, and to pay any expense the county may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

(Ord. No. 15, art. 15, § 6, 1-19-2010)

Secs. 42-491—42-518. - Reserved.

ARTICLE V. - MANAGEMENT OF SHORELAND AREAS

Sec. 42-519. - Statutory authorization.

This article is adopted pursuant to the authorization and policies contained in Minn. Admin. Rules §§ 6120.2500 through 6120.3900 and the planning and zoning enabling legislation in M.S.A. ch. 394.

(Ord. No. 15, art. 16, § 1, 1-19-2010)

Sec. 42-520. - Policy.

The uncontrolled use of shorelands of the county affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interest of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The legislature of the state has delegated responsibility to local governments of the state to regulate the subdivisions, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the county.

(Ord. No. 15, art. 16, § 2, 1-19-2010)

Sec. 42-521. - General provisions.

The provisions of this article shall apply to the shorelands of the public water bodies as classified in section 42-523. Pursuant to Minn. Admin. Rules §§ 6120.2500 through 6120.3900, no lake, pond, or flowage less than 25 acres in size in the unincorporated areas of the county are regulated by these shoreland regulations. A body of water created by a private user where there was no previous shoreland is exempt from this article.

(1) *Compliance.* The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this article and other applicable regulations.

(2) *Enforcement.* The zoning administrator is responsible for the administration and enforcement of this article. Any violation of the provisions of this article or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this article can occur regardless of whether or not a permit is required for a regulated activity pursuant to section 42-522.

(3) *Interpretation.* In the interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the public health, safety and welfare of the citizens of the county by providing for the wise subdivision, use and development of shorelands of public waters. The legislature of the state has and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(4) *Abrogation and greater restrictions.* It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, when this article is inconsistent with any other ordinance, the ordinance which imposes the greater restriction shall prevail.

(Ord. No. 15, art. 16, § 3, 1-19-2010)

Sec. 42-522. - Administration.

(a) *Permits required.* A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatments systems, vegetative alteration, and grading and filling activities not exempted by section 42-524(c). Application for a permit shall be made to the zoning administrator on the forms provided. The application shall include the necessary information so that the zoning administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by section 42-524(m) shall be reconstructed or replaced in accordance with the provisions of this article.

(b) *Certificate of zoning compliance.* The zoning administrator shall issue a certificate of zoning compliance, prior to the commencement of the activity, for each activity requiring a permit as specified in subsection (a) of this section. This certificate will specify that the use of land conforms to the requirements of this article. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this article and shall be punishable as provided in section 42-521(2).

(c) *Variances.*

(1) Variances may only be granted in accordance with M.S.A. ch. 394. A variance may not circumvent the general purposes and intent of this article. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions

may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustments must also consider whether the property owner has reasonable use of the land without the variance, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

(2) The board of adjustments shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. 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 in subsection (d) of this section shall also include the board of adjustments summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(3) For existing developments, the application for a variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

(d) *Notifications to the department of natural resources.* 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 of the state department of natural resources or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats, must include copies of the subdivision/plat. 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 of the state department of natural resources or said commissioner's designated representative and postmarked within ten days of final action.

(Ord. No. 15, art. 16, § 4, 1-19-2010)

Sec. 42-523. - Shoreland classification system and land use districts.

The public waters of the county have been classified below consistent with the criteria found in Minn. Admin. Rules § 6120.3300, and the protected waters inventory map for the county. The shoreland area for the water bodies listed in subsections (1) and (2) of this section shall be defined in article II of this chapter and as shown on the official zoning map.

(1) *Protected waters.*

Natural Environmental Lakes	Township	PWID
Newry Lake	Newry	24-4
Wetland NW Shore Geneva Lake	Geneva	24-13
Geneva Lake	Geneva/Bath	24-15
Goose Lake	Albert Lea	24-17
Lower Twin Lake	Nunda	24-27

Bear Lake	Nunda	24-28
Upper Twin Lake	Nunda/Pickerel Lake	24-31
Eberhart Lake	Pickerel Lake	24-32
Church Lake	Pickerel Lake	24-33
Sugar Lake	Manchester	24-37
Halls Lake	Manchester	24-38
School Section Lake	Manchester	24-40
Freeborn Lake	Freeborn/Carlston	24-44
Spicer Lake	Freeborn	24-45
Penny Lake	Freeborn	24-48
Trenton Lake	Freeborn	24-49
Mud Lake	Pickerel Lake	24-68
Unnamed	Moscow	24-75
Recreational Development Lakes	Township	PWID
Albert Lea Lake	Hayward/A. Lea	24-14
White Lake	A. Lea/Pickerel	24-24
Pickerel Lake	A. Lea/Pickerel	24-25
State Line Lake	Nunda	24-30
General Development Lakes	Township	PWID
Fountain Lake	A. Lea/Bancroft	24-18

(2) *Rivers and streams.*

Name	Description Agricultural Rivers*
Cobb River	Sec. 03, T103N, R23W to Sec. 19, T104N, R23W
Shell Rock River	Sec. 25, T102N, R21W to Sec. 32, T101N, R22W *Tributary Streams**
Cobb Creek	Sec. 13, T103N R23W to Sec. 16, T104N R23W
	Sec. 17, T104N R23W to Sec. 07, T104N R22W
Boot Creek	Sec. 06, T104N R22W to Sec. 06, T104N R22W
Unnamed to Geneva Lake	Sec. 07, T104N R22W to Sec. 18, T104N R20W (Basin 15)
Unnamed Tributary	Sec. 06, T103N R20W to Sec. 06, T103N R20W
Unnamed to Turtle Creek	Sec. 20, T103N R20W to Sec. 20, T103N R20W
Unnamed to Turtle Creek	Sec. 31, T103N R19W to Sec. 30, T103N R19W
Orchard Creek (OC)	Sec. 12, T102N R19W to Sec. 13, T102N R19W
Unnamed to OC	Sec. 14, T102N R19W to Sec. 25, T102N R19W
Mud Lake Creek	Sec. 29, T012N R19W to Sec. 32, T102N R19W
	Sec. 04, T101N R19W to Sec. 13, T101N R19W
Unnamed Tributary	Sec. 14, T101N R19W to Sec. 24, T101N R19W

Unnamed to Cedar River	Sec. 34, T101N R19W to Sec. 35, T101N R19W
Bancroft Creek (BC)	Sec. 28, T103N R21W to Sec. 32, T103N R21W (Basin 18)
Unnamed to BC	Sec. 09, T103N R21W to Sec. 09, T103N R21W
Unnamed to BC	Sec. 15, T103N R21W to Sec. 15, T103N R21W
Unnamed to BC	Sec. 20, T103N R21W to Sec. 21, T103N R21W
Unnamed to Fountain Lake	Sec. 03, T102N R21W to Sec. 04, T102N R21W (Basin 17) (Basin 18)
Unnamed to A. Lea Lake	Sec. 01, T102N R21W to Sec. 07, T102N R20W (Basin 14)
Peter Lund Creek	Sec. 21, T102N R20W to Sec. 07, T102N R20W (Basin 14)
Unnamed to Fountain Lake	Sec. 26, T103N R22W to Sec. 06, T102N R21W (Basin 18)
Unnamed from Sugar Lake	Sec. 28, T103N R22W to Sec. 28, T103N R22W (Basin 37)
Unnamed from Halls Lake	Sec. 29, T103N R22W to Sec. 20, T103N R22W (Basin 38)
Unnamed to Fountain Lake	Sec. 13, T102N R22W to Sec. 08, T102N R21W (Basin 25) (Basin 18)
Unnamed to A. Lea Lake	Sec. 09, T102N R21W to Sec. 09, T102N R21W (Basin 18) (Basin 14)
Unnamed Tributary	Sec. 08, T101N R20W to Sec. 08, T101N R20W

Goose Creek (GC)	Sec. 11, T101N R22W to Sec. 13, T101N R22W (Basin 27)
Unnamed to Lower Twin Lake	Sec. 02, T101N R22W to Sec. 02, T101N R22W (Basin 31) (Basin 27)
Lime Creek	Sec. 20, T101N R22W to Sec. 29, T101N R22W (Basin 28)
Steward Creek (CD #23)	Sec. 14, T102N R23W to Sec. 19, T102N R23W
East Branch Blue Earth R	Sec. 05, T101N R23W to Sec. 19, T102N R23W
Foster Creek (FC)	Sec. 04, T102N R23W to Sec. 31, T103N R23W
Unnamed to FC	Sec. 33, T103N R23W to Sec. 30, T103N R23W*These rivers are protected watercourses and are shown on the Protected Water Inventory Map for Freeborn County, a copy of which is hereby adopted by reference.

(3) *Supporting data.* Supporting data for shoreland management classifications are supplied by the records and files of the department of natural resources, including maps, lists, and other products of the protected waters inventory; data and publications of the shoreland update project; the state department of natural resources statewide outstanding rivers inventory; Bulletin No. 25 (1968); and Supplementary Report No. 1 - Shoreland Management Classification System for Public Waters (1976) of the Division of Waters, Minnesota's Lakeshore, Part 2, Statistical Summary, Department of Geography, University of Minnesota; and additional supporting data may be supplied, as needed, by the commissioner of the state department of natural resources. These publications are incorporated by reference, are available through the Minitex interlibrary loan system, and are not subject to frequent change.

(4) *Classification procedures.* Public waters shall be classified by the commissioner of the state department of natural resources. Said commissioner shall document each classification with appropriate supporting data. A preliminary list of classified public waters shall be submitted to each affected local government. Each affected local government shall be given an opportunity to request a change in the proposed classification. If a local government feels such a change is needed, a written request with supporting data may be submitted to said commissioner for consideration. If a local government requests a change in a proposed shoreland management classification and the public water is located partially within the jurisdiction of another governmental unit, said commissioner shall review the recommendations of the other governmental units before making a final decision on the proposed change.

(5) *Reclassification.* The commissioner of the state department of natural resources may, as the need arises, reclassify any public water. Also, any local data requesting a change in any shoreland

management classification of waters within its jurisdiction to said commissioner for consideration must be submitted to the commissioner.

(6) *Modification and expansion of system.* The commissioner of the state department of natural resources may, as the need arises, modify or expand the shoreland classification system to provide specialized shoreland management standards based upon unique characteristics and capabilities of any public waters.

(7) *Land use district criteria.* The land use districts in subsection (8) of this section, and the delineation of a land use district's boundaries on the official zoning map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives for all land uses:

a. Preservation of natural areas.

b. Present ownership and development of shoreland areas.

c. Shoreland soil types and their engineering capabilities.

d. Topographic characteristics.

e. Vegetative cover.

f. Aquatic physical characteristics, values, and constraints.

g. Recreational use of the surface water.

h. Road and service center accessibility.

i. Socioeconomic development needs and plans as they involve water and related land resources.

j. The land requirements of industry which, by its nature, requires location in shoreland areas.

k. The necessity to preserve and restore certain areas having significant historical or ecological value.

(8) *Land use district descriptions.* The land use districts provided below and the allowable land uses therein for the given classifications of water bodies shall be properly delineated on the official zoning map for shorelands of this community. These land use districts are in conformance with the criteria specified in Minn. Admin. Rules § 6120.3200(3):

a. *Natural environment lakes.* The permitted and conditional uses listed below for natural environment lakes are generally consistent with the permitted and conditional uses in article II of this chapter.

1. *Special protection district.*

(i) Permitted uses:

A. Sensitive resource management.

B. Agricultural: cropland and pasture.

(ii) Conditional uses:

A. New agricultural feedlots.

B. Parks and historic sites.

C. Extractive use.

D. One-family dwellings.

2. *Residential district.*

(i) Permitted uses: One-family dwellings.

(ii) Conditional uses:

A. Semi-public uses.

B. Parks and historic sites.

C. Duplexes

3. *Water-oriented commercial district.*

(i) Permitted uses: None.

(ii) Conditional uses:

A. Surface water-oriented uses.

B. Public, semi-public uses.

C. Parks and historic sites uses.

4. *General use.*

(i) Permitted uses: None.

(ii) Conditional uses:

A. Surface water-oriented uses.

B. Public, semi-public uses.

C. Parks and historic sites uses.

D. Extractive use.

5. *Lot area and width standards.* The lot area (in square feet) and lot width standards (in feet) for one-family dwelling lots created after the date of enactment of the ordinance from which this article is derived are as follows:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Unsewered	80,000	200	80,000	200
Sewered	40,000	125	20,000	125

6. *Placement of structures on lots.*

(i) When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered 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.

(ii) Structures and on-site sewage system must be set back 150 feet from the ordinary high water level, except as follows: One water-oriented accessory structure designed in accordance with section 42-524(b) may be set back a minimum distance of ten feet from the ordinary high water level.

(iii) Additional structure setbacks.

Setback From	Distance
Top of bluff	30 feet
Unplatted cemetery	50 feet
Right-of-way line of a divided highway	100 feet
Centerline of a federal, state, or county highway	130 feet
Centerline of town road, public street, other roads or streets not classified	65 feet

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

(v) Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

b. *Recreational development lakes.* The permitted and conditional uses listed below for recreational development lake districts are generally consistent with the permitted and conditional uses in article II, divisions 4 and 5 of this chapter.

1. *Special protection district.*

(i) Permitted uses:

A. Sensitive resource management.

B. Agricultural: cropland and pasture.

(ii) Conditional uses:

A. New agricultural feedlots.

B. Parks and historic sites.

C. Extractive use.

D. One-family dwellings.

2. *Residential district.*

(i) Permitted uses: One- and two-family dwellings.

(ii) Conditional uses:

A. Semi-public uses.

B. Parks and historic sites.

C. Triplex and quad dwellings.

3. *Water-oriented commercial district.*

(i) Permitted uses: Surface water-oriented commercial uses.

(ii) Conditional uses:

A. Public, semi-public uses.

B. Parks and historic sites uses.

4. *General use.*

(i) Permitted uses:

A. Commercial uses.

B. Public, semi-public uses.

(ii) Conditional uses:

A. Parks and historic sites uses.

B. Extractive use.

5. *Lot area and width standards.* The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quadriplex residential lots created after the date of enactment of the ordinance from which this article is derived for recreational development lakes are as follows:

Unsewered	Riparian Area	Lot Width	Nonriparian Area	Lot Width
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

Sewered	Riparian Area	Lot Width	Nonriparian Area	Lot Width
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

6. *Placement of structures on lots.*

(i) When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered 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.

(ii) Structures and on-site sewage system on recreational development lakes must be set back from the ordinary high water level as follows:

Sewered structures	75 feet
Unsewered structures	100 feet
On-site sewage treatment systems	75 feet

(iii) One water-oriented accessory structure designed in accordance with section 42-524(b) may be set back a minimum distance of ten feet from the ordinary high water level.

(iv) Additional structure setbacks.

Setback from	Distance
Top of bluff	30 feet
Unplatted cemetery	50 feet
Right-of-way line of a divided highway	100 feet
Centerline of a federal, state, or county highway	130 feet
Centerline of town road, public street, or other roads or streets not classified	75 feet

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

(vi) Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal

ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

c. *General development lakes.* The permitted and conditional uses listed below for general development lake districts are generally consistent with the permitted and conditional uses in article II, divisions 5 and 6 of this chapter.

1. *Special protection district.*

(i) Permitted uses:

A. Sensitive resource management.

B. Agricultural cropland and pasture.

(ii) Conditional uses:

A. Agricultural feedlots.

B. Parks and historic sites

C. Extractive use.

D. One-family dwellings.

2. *Residential district.*

(i) Permitted uses:

A. One-family dwellings.

B. Duplex, triplex and quad dwellings.

(ii) Conditional uses:

A. Semi-public uses.

B. Parks and historic sites.

3. *Water-oriented commercial district.*

(i) Permitted uses: Surface water-oriented commercial uses.

(ii) Conditional uses:

A. Public, semi-public uses.

B. Parks and historic sites uses.

4. *General use.*

(i) Permitted uses:

A. Commercial uses.

B. Public, semi-public uses.

(ii) Conditional uses:

A. Parks and historic sites uses.

B. Extractive use.

5. *Lot area and width standards.* The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this article for general development lakes are as follows:

Unsewered	Riparian Area	Lot Width	Nonriparian Area	Lot Width
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	180,000	340	160,000	490

Sewered	Riparian Area	Lot Width	Nonriparian Area	Lot Width
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

6. *Placement of structures on lots.*

   (i) When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered 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.

   (ii) Structures and on-site sewage system on general development lakes must be set back from the ordinary high water level as follows:

Sewered structures	50 feet
Unsewered structures	75 feet

On-site sewage treatment systems	50 feet

(iii) One water-oriented accessory structure designed in accordance with section 42-524(b) may be set back a minimum distance of ten feet from the ordinary high water level.

(iv) Additional structure setbacks.

Setback From	Distance
Top of bluff	30 feet
Unplatted cemetery	50 feet
Right-of-way line of a divided highway	100 feet
Centerline of a federal, state, or county highway	130 feet
Centerline of town road, public street, other roads or streets not classified	75 feet

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

(vi) Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

d. *Agricultural river standards.* The permitted and conditional uses listed below for agricultural river districts are generally consistent with the permitted and conditional uses in article II, division 2 of this chapter.

1. *Special protection district.*

(i) Permitted uses:

A. Sensitive resources management.

B. Agriculture: cropland and pasture.

(ii) Conditional uses:

A. New agricultural feedlots.

B. Parks and historic sites.

C. Extractive uses.

D. One-family dwellings.

2. *Residential district.*

(i) Permitted uses: One-family dwelling.

(ii) Conditional uses:

A. Semi-public uses.

B. Parks and historic sites.

C. Duplex.

3. *Water-oriented commercial district.*

(i) Permitted uses: Semi-public uses.

(ii) Conditional uses:

A. Surface water-oriented commercial.

B. Parks and historic sites.

4. *General use.*

(i) Permitted uses: None.

(ii) Conditional uses:

A. Commercial uses.

B. Parks and historic sites.

C. Semi-public uses.

D. Extractive uses.

5. *Lot width standards.* The lot width for one-family dwellings is 150 feet, or 225 feet for a duplex.

6. *Placement of structures on lots.*

(i) When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered 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.

(ii) Structures and on-site sewage system in agricultural river districts must setback from the ordinary high water level as follows:

Sewered structures	50 feet
Unsewered structures	100 feet
On-site sewage treatment systems	75 feet

(iii) One water-oriented accessory structure designed in accordance with section 42-524(b) may be set back a minimum distance of ten feet from the ordinary high water level.

(iv) Additional structure setbacks.

Setback From	Distance
Top of bluff	30 feet
Unplatted cemetery	50 feet
Right-of-way line of a divided highway	100 feet
Centerline of a federal, state, or county highway	130 feet
Centerline of town road, public street, other roads or streets not classified	75 feet

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

(vi) Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

e. *Tributary river standards.* The permitted and conditional uses listed below for tributary river districts are generally consistent with the permitted and conditional uses in article II, division 2 of this chapter.

1. *Special protection district.*

(i) Permitted uses:

A. Sensitive resources management.

B. Agriculture: cropland and pasture.

(ii) Conditional uses:

A. Agricultural feedlots.

B. Parks and historic sites.

C. Extractive uses.

D. One-family dwellings.

2. *Residential district.*

(i) Permitted uses:

A. One-family dwelling.

B. Semi-public uses.

C. Parks and historic sites.

(ii) Conditional uses:

A. Duplex.

B. Extractive uses.

3. *Water-oriented commercial district.*

(i) Permitted uses: None.

(ii) Conditional uses:

A. Surface water-oriented commercial.

B. Parks and historic sites.

C. Semi-public uses.

4. *General use.*

(i) Permitted uses: None.

(ii) Conditional uses:

A. Commercial uses.

B. Parks and historic sites.

C. Semi-public uses.

D. Extractive uses.

E. Industrial uses.

5. *Lot width standards.* The lot width for one-family dwellings is 100 feet with an individual sewage treatment system, or 75 feet with a community sewer system. The lot width for a duplex is 150 feet with an individual sewage treatment system, or 115 feet with a community sewer system.

6. *Placement of structures on lots.*

(i) When more than one setback applies to a site, structures must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered 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.

(ii) Structures and on-site sewage system in tributary river districts must be set back from the ordinary high water level as follows:

Sewered structures	50 feet
Unsewered structures	100 feet
On-site sewage treatment systems	75 feet

(iii) One water-oriented accessory structure designed in accordance with section 42-524(b) may be set back a minimum distance of ten feet from the ordinary high water level.

(iv) Additional structure setbacks.

Setback From	Distance
Top of bluff	30 feet
Unplatted cemetery	50 feet
Right-of-way line of a divided highway	100 feet
Centerline of a federal, state, or county highway	130 feet
Centerline of town road, public street, other roads or streets not classified	75 feet

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

(vi) Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(9) *Inconsistent land use districts.*

a. The land use districts adopted in this article, as they apply to shoreland areas, and their delineated boundaries on the official zoning map, are generally consistent with the land use district designation criteria specified in subsection (7) of this section. However, where inconsistent land use district may exist, the designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the official zoning map or to modify the boundary of an existing land use district shown on the official zoning map.

b. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:

1. *For lakes.* When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this article on said lake must be revised to make them substantially compatible with the framework in subsections (7) and (8) of this section.

2. *For rivers and streams.* When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this article must be revised to make them substantially compatible with the framework in subsections (7) and (8) of this section. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a

distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need to be evaluated and revised.

c. When an interpretation question arises about whether a specific land use fits within a given use category, the interpretation shall be made by the board of adjustment. When a question arises as to whether a land use district's boundaries are properly delineated on the official zoning map, this decision shall be made by the board of adjustments.

d. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The county board of commissioners will direct the zoning administrator to provide such additional information for this water body as is necessary to satisfy subsections (9)a and b of this section.

e. The county board must make a detailed finding of fact and conclusion when to take final action that this revision, and the upgrading of any inconsistent land use district designations on said water body, are consistent with the enumerated criteria and use provisions of subsection (7) of this section.

(Ord. No. 15, art. 16, § 5, 1-19-2010)

Sec. 42-524. - Design criteria, shoreland alterations and special provisions.

(a) *Controlled access lots.* Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

(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 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements	
Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100—200	20
201—300	15
301—400	10
Greater than 400	5

(3) They must be jointly owned by all purchasers of lots in the subdivision or by all purchases of nonriparian 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.

(b) *Design criteria for structures.*

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

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

b. *For rivers and streams.* For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data is available; if data is not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection evaluation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minn. Admin. Rules §§ 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

c. *Water-oriented structures.* Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this subsection (1) if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(2) *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure setback in section 42-523(8) if this water-oriented accessory structure complies with the following provisions:

a. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.

b. The setback of the structure or facility from the ordinary high water level must be at least ten feet.

c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

d. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

e. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

f. As an alternative for general development and recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet, provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(3) *Stairways, lifts, and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and on bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.

b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, and public open-space recreational properties.

c. Canopies or roofs are not allowed on stairways, lifts, or landings.

d. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

f. Facilities, such as ramps, lifts, or mobility paths, for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (b)(3)a through e of this section are complied with in addition to the requirements of Minn. Admin. Rules ch. 1340.

g. Decks must meet the structure setback standards. Decks that do not meet setback requirements from public waters may be allowed without a variance to be added to structures existing on the date the shoreland structure setbacks were established by ordinance, if all of the following criteria and standards are met:

1. *Evaluation.* A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.

2. *Encroachment.* The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.

3. *Construction.* The deck is constructed primarily of wood, and is not roofed or screened.

4. *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

5. *Steep slopes.* The zoning administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

6. *Height of structures.* All structures in shoreland residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

(c) *Shoreland alterations.* Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitats.

(1) Removal or alterations of vegetation, except for forest management or agricultural uses as provided for in subsections (j) and (k) of this section, is allowed according 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 outside of these areas is allowed if the activity is consistent with the forest management standards in subsection (k) of this section.

b. Limited clearing of trees and shrubs and cutting, pruning, and trimming of trees to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, as well as providing a view to the water from the principal dwelling site, in shore and bluff impact zones and on steep slopes is allowed, provided that:

1. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

2. Along rivers, existing shading of water surfaces is preserved;

3. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards; and

4. The use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.

(2) Before grading or filling on steep slopes or within shore or bluff impact zones involving the movement of more than ten cubic yards of material or anywhere else in a shoreland area involving movement of more than 50 cubic yards of material, it must be established by local official permit issuance that all of the following conditions will be met. The following conditions must also be considered during subdivision, variance, building permit, and other conditional use permit reviews:

a. Before authorizing any grading or filling activity in any type 2, 3, 4, 5, 6, 7 or 8 wetland, local officials must consider how extensively the proposed activity would affect the following functional qualities of the wetland:

1. Sediment and pollutant trapping and retention;

2. Storage of surface runoff to prevent or reduce flood damage;

3. Fish and wildlife habitat;

4. Recreational use;

5. Shoreline or bank stabilization; or

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

(3) 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, the state department of natural resources, or the U.S. Army Corps of Engineers.

a. 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.

b. 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.

c. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

d. 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 U.S. Soil Conservation Service.

e. Fill or excavated material must not be laced in a manner that creates an unstable slope.

f. 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 30 percent or greater.

g. Fill or excavated material must not be placed in bluff impact zones.

h. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner of the state department of natural resources under M.S.A. ch. 103G.

i. 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.

j. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

(4) 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 of the state department of natural resources has approved the proposed connection to public waters.

(d) *Vegetative alterations.*

(1) A vegetative alteration permit is required for the construction of structures, sewage treatment systems, and the construction of roads or parking areas regulated by subsection (f) of this section.

(2) Removal or alteration of vegetation, except for agricultural uses as regulated in subsection (j) of this section, is allowed subject to the following standards:

a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.

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, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

1. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.

2. Along rivers, existing shading of water surfaces is preserved.

3. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(e) *Topographic alterations/grading and filling.*

(1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling

standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(2) Public roads and parking areas are regulated by subsection (f) of this section.

(3) Notwithstanding subsections (e)(1) and (2) of this section, a grading and filling permit will be required for:

a. The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones.

b. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

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

a. Grading or filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland. 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, the state department of natural resources, or the U.S. Army Corps of Engineers. The applicant will be so advised.

1. Sediment and pollutant trapping and retention.

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

3. Fish and wildlife habitat.

4. Recreational use.

5. Shoreline or bank stabilization.

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

b. 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.

c. 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.

d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

e. 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 U.S. Soil Conservation Service.

f. Fill or excavated material must not be placed in a manner that creates an unstable slope.

g. 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 30 percent or greater.

h. Fill or excavated material must not be placed in bluff impact zones.

i. Any alterations below the ordinary high water level of public waters must be authorized by the commissioner of the state department of natural resources under M.S.A. § 103G.245.

j. 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.

k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

(5) Connection 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 of the state department of natural resources has approved the proposed connection to public waters.

(f) *Placement and design of roads, driveways, and parking areas.*

(1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(2) 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.

(3) Public and private 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 subsection (f) are met. For private facilities, the grading and filling provisions of section 42-393(b)(2) must be met.

(g) *General stormwater management standards.* The following general and specific standards shall apply to the management of stormwater:

(1) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities, such as diversions, settling basins, skimming devices, dikes, waterways, and ponds, may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

(h) *Specific standards.*

(1) Impervious surface coverage of lots must not exceed 25 percent of the lot area.

(2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(4) Mining of metallic minerals and peat, as defined by M.S.A. §§ 93.44 to 93.51. Mining of metallic minerals and peat shall be a permitted use, provided the provisions of M.S.A. §§ 93.44 to 93.51 are satisfied.

(i) *Special provisions and standards for commercial, public and semi-public uses.*

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

a. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this article, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

b. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions or navigation and to be the minimum size necessary to meet the need.

c. Sign permits are required for all signs. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.

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

3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(2) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(j) *Agriculture use standards.*

(1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the U.S. Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(2) Animal feedlots must meet the following standards:

a. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters, public and private ditches, streams, creeks and type 3, 4, 5, 6, 7, and 8 wetlands.

b. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

c. A certificate of compliance, interim permit, or animal feedlot permit, when required by Minn. Admin. Rules §§ 7020.0200 to 7020.1900, must be obtained by the owner or operator of an animal feedlot.

d. Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

(k) *Forest management standards.* The harvesting of timber and associated reforestation or conversion of forested use to a non-forested use must be conducted consistent with the following standards:

(1) Timber harvesting and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

(2) Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:

a. Shore and bluff impact zones must not be intensively cleared of vegetation; and

b. An erosion and sediment control plan is developed and approved by the local soil and water conservation district before issuance of a conditional use permit for the conversion.

(3) Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

(l) *Extractive use standards.*

(1) *Site development and restoration plan.* An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

(2) *Setbacks for processing machinery.* Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

(m) *Conditional uses.*

(1) Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established communitywide. The following additional evaluation criteria and conditions apply within shoreland areas. A thorough evaluation of the water body and the topographic, vegetation, and soil 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 watercrafts.

(2) Conditions attached to conditional use permits. The county board of commissioners, upon consideration of the criteria listed above and the purposes of this article, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this article. Such conditions may include, but are not limited to, the following:

a. Increased setbacks from the ordinary high water level.

b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.

c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(n) *Water supply and sewage treatment.*

(1) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and the state pollution control agency.

(2) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

(3) *Sewer systems.* Publicly owned sewer systems must be used where available.

(4) *Standards.* All private sewage treatment systems must meet or exceed the state pollution control agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080," a copy of which is hereby adopted by reference and declared to be a part of this article.

(5) *Setbacks.* On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in section 42-523(4).

(6) *Evaluation, criteria.* All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsections (n)(1) through (4) of this section. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

a. Depth to the highest known or calculated groundwater table or bedrock.

b. Soil conditions, properties, and permeability.

c. Slope.

d. The existence of lowlands, local surface depressions, and rock outcrops.

(7) *Nonconforming systems.* Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 42-525(3).

(Ord. No. 15, art. 16, § 6, 1-19-2010)

Sec. 42-525. - Nonconformities.

All legally established nonconformities as of the date of the ordinance from which this article is derived may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use, except that the following standards will also apply in shoreland areas:

(1) *Construction on nonconforming lots of record.*

a. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of section 42-523(3) 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 article are met.

b. A variance from setback requirements must be obtained before a use, sewage treatment system, or land development 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 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of section 42-523(3), the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined

with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of section 42-523(3) as much as possible.

(2) *Additions/expansions to nonconforming structures.*

a. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of sections 42-522 and 42-523. Any deviation from these requirements must be authorized by a variance pursuant to section 42-522(c).

b. Deck additions may be allowed without a variance to structures not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

1. The structure existed on the date the structure setbacks were established.

2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.

3. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.

4. The deck is constructed primarily of wood, and is not roofed or screened.

(3) *Nonconforming sewage treatment systems.*

a. A sewage treatment system not meeting the requirements of 42-524(n)(2) must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

b. The county board of commissioners has by formal resolution notified the commissioner of the state department of natural resources of its program to identify nonconforming sewage treatment systems by a systematic review of existing records and also to initiate a program of information and education to encourage property owners to voluntarily upgrade nonconforming sewage treatment systems. The county will require upgrading or replacement of any nonconforming system identified by this program at any time a permit or variance of any type is required for any improvement on, or use of, the property. Sewage systems installed according to all applicable local shoreland management standards adopted under M.S.A. § 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by Minn. Admin. Rules ch. 7080 for design on-site sewage treatment systems, shall be considered nonconforming.

(Ord. No. 15, art. 16, § 7, 1-19-2010)

Sec. 42-526. - Subdivision and platting provisions.

(a) *Land suitability.* Each lot created through subdivision of this article must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision.

(b) *Consistency with other controls.* Subdivisions must conform to all official controls of the county. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with sections 42-523(3) and section 42-524(n)(2) can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of section 42-523(3), including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment systems. The area provided for the two standard soil treatment systems shall be shown on the plat as a sewage treatment system easement. Lots that would require use of holding tanks must not be approved.

(c) *Information requirements.* Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

(1) Topographic contours at two-foot intervals or less from U.S. Geological Survey maps or more accurate sources, showing limiting site characteristics.

(2) The surface water features required in M.S.A. § 505.021(1) to be shown on plats, obtained from U.S. Geological Survey quadrangle topographic maps or more accurate sources.

(3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations, such as soil borings, percolation tests, or other methods.

(4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities.

(5) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data.

(6) A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(d) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(e) *Platting.* All subdivisions that create five or more lots or parcels that are 2.5 acres or less in size shall be processed as a plat in accordance with M.S.A. ch. 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(f) *Controlled access or recreational lots.* Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in section 42-524(a).

(Ord. No. 15, art. 16, § 8, 1-19-2010)

Secs. 42-527—42-545. - Reserved.

ARTICLE VI. - FEEDLOT AND MANURE MANAGEMENT ORDINANCE

Sec. 42-546. - Purpose.

The purpose of this article is to regulate feedlot facilities and animal manure resources within the county, and outside the incorporated limits of municipalities. These rules comply with the policy and purpose of the state in regard to the control of pollution as set forth in Minn. Admin. Rules ch. 7020.

(Ord. No. 15, art. 17, § 1, 1-19-2010)

Sec. 42-547. - General provisions.

(a) Compliance. The use of any land for the establishment, expansion or management of an animal feedlot shall comply with the provisions of this article, the county zoning ordinance, and the provisions of state pollution control agency rules.

(b) Administration and enforcement. The environmental services department is responsible for the administration and enforcement of this article. The board may establish by resolution any permit fees necessary to fund the administration and enforcement of this article. Any violation of the provisions of this article or failure to comply with any of its requirements, including violations of conditions and safeguards, variances, or conditional uses, shall constitute a misdemeanor and shall be punishable as defined by law.

(1) The provisions of this article shall be administered by the office of the environmental services department.

(2) When any work has been stopped by the environmental services department, for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely resolved.

(3) It shall be the duty of the county attorney and the county sheriff, when called upon by the county board of commissioners, to perform such duties as may be necessary to enforce the provisions of this article.

(c) Duties and powers of the office of environmental services department include, but are not limited to the following:

(1) Distribute state pollution control agency permit application for an animal feedlot or manure storage area forms and required documents to make application for the permit. The permit application and required documents must be completed in order to obtain a construction short form permit, interim permit, national pollutant discharge elimination system permit and/or state disposal system permit.

(2) Provide, where requested, assistance to applicants to ensure that state pollution control agency permit application for an animal feedlot or manure storage area and required documents are properly completed.

(3) Receive and review completed permit application for an animal feedlot or manure storage area and required documents to determine whether the proposed animal feedlot or manure storage area will comply with Minn. Admin. Rules ch. 7020 and county zoning ordinances.

(4) Issue a construction short form permit or an interim permit to sites with less than 1,000 animal units that have met all the Minn. Admin. Rules ch. 7020 and county zoning ordinances.

(5) The required inspections are:

a. *Site inspection.* To be made prior to the issuance of a construction short form permit or interim permit prior to the start of any construction.

b. *Foundation/floor inspection.* To be made after excavation for foundation/floor is completed and required reinforcing steel is in place.

c. *Foundation wall inspection.* To be made after forms and required reinforcing steel is in place.

d. *Re-inspections.* As deemed necessary by the environmental services department or the state pollution control agency.

e. *Final inspection.* To be made after finishing grade and the building is completed and ready for animal occupancy. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. A survey of the lot may be required by the

environmental services department to verify that all structures are located in accordance with the approved plans.

f. *Animal feedlots and storage inspection.* Conduct inspection of animal feedlots and manure storage areas as required by the Minn. Admin. Rules § 7020.1600.

(6) Register animal feedlots and manure storage areas as required by Minn. Admin. Rules § 7020.0350.

(7) Maintain a record of all correspondence and material relating to the state pollution control agency permit application for an animal feedlot or manure storage area and supporting documents.

(8) Provide such other tasks which are delineated within or incidental to the procedures outlined herein.

(d) The county agrees to forward to the state pollution control agency, the permit application for the following animal feedlot or manure storage areas and supporting documents:

(1) Animal feedlots with 1,000 animal units or more;

(2) Animal feedlots with a potential pollution hazard which has not been mitigated by corrective or protective measures;

(3) Animal feedlots where manure is not used as domestic fertilizer; or

(4) Animal feedlots for which further technical review is desired by the environmental services department.

(5) Animal feedlots with more than ten animal units shall be registered and an electronic copy shall be forwarded to the state pollution control agency according to the Minn. Admin. Rules § 7020.0350.

(e) The county agrees to exercise authority to issue, deny, modify, impose conditions upon or revoke interim permits for animal feedlots smaller than 1,000 animal units where animal manure is used as a domestic fertilizer and with a potential pollution hazard which will be mitigated by corrective or protective measures within 12 months of the date of the issuance of the interim animal feedlot permit. The county further agrees to follow the requirements cited in Minn. Admin. Rules § 7020.1600, subparts 3A, B, C, and D, in carrying out these tasks. The county agrees to accomplish the processing of applications for animal feedlot permits in the following manner:

(1) For animal feedlots with less than 1,000 animal units where manure is used as a domestic fertilizer and where all potential pollution hazards have been mitigated by protective or corrective measures, the environmental services department shall provide a county feedlot permit to the applicant stating that the animal feedlots comply with Minn. Admin. Rules ch. 7020.

(2) For animal feedlots with more than 1,000 animal units where manure is used as a domestic fertilizer and with no potential pollution hazard, the environmental services department shall forward to the state pollution control agency the state pollution control agency permit application for an animal feedlot or manure storage area and required documents.

(f) The county agrees to follow those techniques as provided by the state pollution control agency to determine whether a surface water discharge will exist providing the state pollution control agency provides an opportunity for training in those techniques. At such time as the county no longer wishes to continue in the application review process or wishes to change its program in a way other than designated in this statement, it shall submit a resolution stating its reasons for changing the program or withdrawing from the program to the commissioner of the state pollution control agency.

(Ord. No. 15, art. 17, § 2, 1-19-2010)

Sec. 42-548. - Amendment.

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

(1) *Proceedings for amendment.* Proceedings for amendment of this article shall be initiated as follows:

   a. A recommendation of the county planning commission.

   b. By action of the board of county commissioners.

(2) *Notice of public hearing.* A notice of public hearing, containing date, time and location of hearing as well as description of the proposed amendment, shall be published in the official newspaper of the county at least ten days in advance of the public hearing.

(3) *Public hearing report and recommendation.* The county planning commission shall hold a public hearing, as published in the official newspaper of the county, and shall make a report of its findings and recommendations on the proposed amendment to the county board of commissioners and the zoning administrator within 30 days after the hearing. If no report or recommendation is transmitted by the county planning commission within 30 days after the hearing, the board may take action without awaiting for such recommendation.

(4) *Adoption.* Upon the filing of such report or recommendation, the board may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the board may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if a majority of all members of the board concur with its passage.

(Ord. No. 15, art. 17, § 3, 1-19-2010)

Sec. 42-549. - Definitions.

Unless specifically defined, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage in their most reasonable application. For the purposes of this article, the words "must" and "shall" are mandatory and not permissive.

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

Aboveground manure storage area means a storage area for which all portions of the liner are located at or above the elevation of the natural ground level.

Aerial irrigation (of animal manure) means the spreading of animal manure into the air with the aid of pipes, hoses, pumps and/or spraying nozzles. Aerial irrigation is prohibited in the county. The spreading of liquid manure with the use of commercially produced manure spreaders in not considered aerial irrigation.

Agency means the state pollution control agency as established in M.S.A. ch. 116.

Agriculture means the use of land for the production, for commercial purposes and on the farm use, of livestock and livestock products, other animals and other animal products, poultry products and all crops, including, but not limited to, the following:

(1) Farm livestock and livestock products: domestic animals kept for use on the farm or raised for sale or profits, including, but not limited to, dairy and beef cattle, swine, goats, horses, fowl, bees, honey, cheese, butter and meat;

(2) Other animals, except farm livestock for their pelts, pleasure or sport, including, but not limited to, rabbits, mink, dogs, ponies, buffalo, and deer. The term "agriculture" does not include predator-type animals, such as, but not limited to, tigers, panthers, wolves, etc;

(3) Domestically raised fowl kept for food and pleasure, including, but limited to, chickens, turkeys, ducks, geese and game birds;

(4) Field crops, including, but not limited to, corn, milo, soybeans, sorghum, sunflowers, wheat, oats, rye, barley, hay, potatoes, beans and peas;

(5) Fruits, including, but not limited to, apples, plums, apricots, peaches, grapes, cherries and berries;

(6) Horticultural specialties, including, but not limited to, ornamental shrubs, trees and flowers;

(7) Vegetables, including, but not limited to, tomatoes, snap beans, cabbage, carrots, beans, onions and sweet corn.

Animal feedlot means a lot or building or a 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. For purposes of this article, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under this definition. Other definitions relating to feedlots are found in the state pollution control agency Rules Chapter 7020 for the control of pollution from animal feedlots. These rules are adopted by reference in this article.

Animal unit (A.U.) means a unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or a manure storage area calculated by multiplying the number of animals for each type in items A to R by the respective multiplication factor and summing the resulting values for the total number for the total number of animal units. For the purpose of this article, the following multiplication factors apply:

A.	One mature dairy cow, whether milked or dry, over 1,000 pounds	1.4 A.U.
B.	One mature dairy cow, whether milked or dry, under 1,000 pounds	1.0 A.U.
C.	One heifer (has not had a calf)	0.7 A.U.
D.	One calf (150—500 pounds)	0.2 A.U.
E.	One slaughter steer or stock cow (500—1,200 pounds)	1.0 A.U.
F.	One feeder cattle (stocker or backgrounding) or heifer (arrive at 300—400 pounds and leave at 800—900 pounds)	0.7 A.U.
G.	One cow and calf pair	1.2 A.U.
H.	One swine over 300 pounds	0.4 A.U.
I.	One swine between 55—300 pounds	0.3 A.U.
J.	One swine under 55 pounds	0.05 A.U.
K.	One horse	1.0 A.U.

L.	One sheep or lamb	0.1 A.U.
M.	One chicken laying hen or broiler if the facility has a liquid manure system	0.033 A.U.
N.	One chicken if the facility has a dry manure system over five pounds	0.005 A.U.
O.	One chicken if the facility has a dry manure system under five pounds	0.003 A.U.
P.	One turkey over five pounds	0.018 A.U.
Q.	One turkey under five pounds	0.005 A.U.
R.	One duck	0.01 A.U.

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

(2) Threshold for large concentrated animal feeding operations. The Environmental Protection Agency uses animal numbers as the criteria for feedlots requiring a national pollutant discharge elimination system (NPDES) permit. The animal numbers are listed for the species requiring a NPDES permit.

Animal Type	Animal Numbers	Minnesota Animal Units
Mature dairy cows	700	700 — 900
Heifers	1,000	700
Veal calves	1,000	200
Beef cattle	1,000	1,000
Swine less 55 pounds	10,000	500

Swine over 55 pounds	2,500	750
Horses	500	500
Sheep or lamb	10,000	10,000
Broilers dry manure under five pounds	125,000	625
Broilers dry manure over five pounds	125,000	375
Chickens liquid manure	30,000	990
Layers dry manure under five pounds	82,000	246
Layers dry manure over five pounds	82,000	410
Turkeys under five pounds	55,000	275
Turkeys over five pounds	55,000	990
Ducks dry manure	30,000	3,000
Ducks liquid manure	5,000	500

Board means the county board of commissioners.

Board of adjustments means a quasi-judicial body, created by this chapter, whose responsibility is to hear appeals from decisions of the planning and zoning administrator and to consider requests for variances permissible under terms of this chapter.

Building, agriculture, means all buildings, other than dwellings, which are incidental to a farming operation.

Buffer means areas or strips of land maintained in permanent vegetation designed for screening and/or to intercept pollutants from both surface water and groundwater, which includes trees, shrubs and/or grasses.

Certificate of compliance is a document from the state pollution control agency commissioner or the county feedlot pollution control officer to the owner of an animal feedlot or manure storage area stating that the animal feedlot or manure storage area meets agency requirements. The use of this document was discontinued on October 23, 2000, by the state pollution control agency and is no longer valid.

Change in operation means 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, or a change in the construction operation of an animal feedlot that would affect the storage, handling, utilization, or disposal of animal manure.

Commencement of construction means to begin or cause to begin, as part of a continuous program, the placement, assembly or installation of facilities or equipment; or to conduct significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities or equipment at:

(1) A new or expanding animal feedlot; or

(2) A new, modified, expanded manure storage area.

Commercial manure applicator means a person having a commercial animal wastes technician license issued by the state department of agriculture. There are two categories of licenses issued. One license issued is for applying liquid manure and the other license is for applying solid manure.

Commissioner means the commissioner of the state pollution control agency whose duties are defined in M.S.A. § 116.03.

Composite liner means a manure storage area liner which is designed to achieve a theoretical seepage rate of 1/560 -inch per day or less and consists of a geomembrane liner, geosynthetic clay liner, or other comparable material, laid over a constructed cohesive soil liner having a thickness of two feet or greater.

Compost animal mortality means a humus-like product derived from the control degradation of organic material. The term "compost animal mortality" includes only animal mortality that is being processed in accordance with Minn. Admin. Rules § 1719.400(9023)(E).

Compost manure means a humus-like product derived from the controlled degradation of organic material. The term "compost manure" includes only manure that has completed the composting process as described in the Minn. Admin. Rules ch. 7020.2150(2).

Concentrated animal feeding operation or *CAFO* means animal feedlots meeting the definition of a CAFO in 40 CFR 122.23.

Conditional use means a use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the board of county commissioners, and subject to special requirements, different from those usual requirements for the district in which the conditional use may be located.

Construction short form permit is a permit issued for an animal feedlot or manure storage area according to Minn. Admin. Rules §§ 7020.0500 and 7020.0535.

Corrective or protective measures means a practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal feedlot or manure storage area to a level in conformity with agency rules.

County feedlot permit means documents from the environmental services department to the owners/operators of an animal feedlot or manure storage area stating that the animal feedlot or manure storage area meets agency requirements.

County feedlot pollution control officer. The county environmental services department shall serve as the feedlot officer. This means an employee or officer of the county who is knowledgeable in agriculture and who is designated by the county board to perform the duties under Minn. Admin. Rules § 7020.1600.

Delegated county means a county that has applied for and received authorization pursuant to Minn. Admin. Rules § 7020.1600(3)(c) to implement an animal feedlot program. Freeborn County is a delegated county.

Design engineer means a professional engineer licensed in the state or a natural resources conservation service (NRCS) staff person having NRCS approval authority for the project.

Discharge means the addition of a pollutant to waters of the state, including a release of animal manure, manure-contaminated runoff or process wastewater from an animal feedlot, a manure storage area or an animal manure land application site by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or any other means. The term "discharge" includes both point source and non-point source discharges.

Domestic fertilizer means:

(1) Animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth; or

(2) Animal manure that is used as compost, soil conditioners, or specialized plant beds.

Environmental assessment worksheet (EAW) means a brief document, which is designed to set out the basic facts necessary to determine if an environmental impact statement is required for a proposed project.

Environmental impact statement (EIS) means a thorough study of a project with potential for significant environmental impacts, including evaluation of alternatives and mitigation.

Environmental quality board (EQB). The state environmental quality board is responsible for the environmental assessment worksheet and the environmental impact statement. The environmental quality board consists of the commissioners from various state government units and several appointed citizen members. The environmental quality board is separate from the state pollution control agency.

Environmental services department means any employee in the department who is knowledgeable in agriculture, designated by the county board to receive and process feedlot applications and permits, and to perform the duties under Minn. Admin. Rules § 7020.1600.

Existing feedlot means an animal feedlot that has been utilized for livestock production within the past five years. The property owner shall show proof that animals were on the site within the past five years. The term "existing feedlot" includes an animal feedlot that has been utilized for livestock production within the past two years and is located within one mile of an incorporated municipal boundary or is located within one mile of the unincorporated areas of Gordonsville, London, Maple Island, or Oakland in the county, or within one-fourth mile of any residentially zoned district. The property owner shall show proof that animals were on the site within the past two years. The feedlot must also be registered with the state pollution control agency.

Expansion of an existing feedlot means any change in a feedlot operation that results in an increase in animal units, or enlargement of existing buildings or addition of livestock buildings or manure storage structure.

Expansion or *expanded* means construction or any activity that has an animal feedlot is capable of holding or an increase in storage capacity of a resulted or may result in an increase in the number of animal units that manure storage area.

Farmyard means the area of a farm immediately around the farm residence where accessory buildings are located and are being used exclusively for agricultural operations.

Floodplain means the areas adjoining a watercourse which have been or hereafter may be covered by a large flood known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

Flowage means a body of water, such as a lake, formed by deliberate flooding caused by the act of flowing, overflowing or outflow.

Flow distance means the distance runoff travels from the source of the runoff to waters of the state.

Hayground means grasses or legume crop harvested for hay during the last two of three years.

Immediate incorporation means the mechanical incorporation of manure into the soil at a sufficient depth, so as to mix and cover the manure with soil. The mechanical incorporation must be completed within 24 hours of the manure application to that field.

Injection of liquid manure means a mechanical action to distribute the liquid manure into the soil, below the ground surface.

Interim permit means a permit issued by the commissioner or the county feedlot pollution control officer in accordance with Minn. Admin. Rules §§ 7020.0505 and 7020.0535.

Intermittent streams means all water courses identified as intermittent streams on U.S. Geological Survey quadrangle maps.

Liquid manure means manure with 80 percent or greater moisture content.

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

Manure-contaminated runoff means a liquid that has come into contact with animal manure and drains over land from any animal feedlot, manure storage area, or animal manure land application site.

Manure management plan means a plan which describes manure application and utilization techniques as required in the permit application for an animal feedlot or manure storage area.

Manure storage area or facility means an area or facility 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 these regulations.

Modification means any change in the feedlot operation that does not result in an increase in animal numbers.

National pollutant discharge elimination system (NPDES) permit means a permit issued by the state pollution control agency for the purpose of regulating the discharge of pollutants from point sources, including concentrated animal feeding operations (CAFOs).

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

(1) Constructed, established, or operated at a site where no animal feedlot or manure storage area existed previously; or

(2) Where an animal feedlot existed previously, but has not been used for five years or more.

New technology means an alternative construction or operating method to those provided in the Minn. Admin. Rules §§ 7020.2000 to 7020.2225. New technology construction or operating methods must achieve equivalent environmental results to the requirements in the Minn. Admin. Rules §§ 7020.2000 to 7020.2225.

Non-point source pollution means pollution whose source can not be pinpointed; the sources for this type of pollution are thought to be a series of many small sources or sources spread out across the landscape.

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

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

Owners/operators means any individual, firm, partnership, trust, corporation, company, association, organization, joint stock association or political subdivision, including any executor, administrator, trustee, receiver, assignee or similar representative thereof.

Parcel means a piece of land having its own dimensions, as described by plat, metes and bounds, or by reference to a section or partial section and recorded with the county recorder as the property of a person.

Parks means areas of land owned by a state, county, city or township and designed for public recreational use.

Pastures means areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or water devices.

Permanent stockpiling site means a manure storage area where manure is stored or processed that does not meet the requirements of Minn. Admin. Rules § 7020.2125(2).

Planning commission means the county planning commission duly appointed by the county board with powers and duties defined in this article.

Point source pollution means pollution whose source can be pinpointed; the sources for this type of pollution are thought to be a series of many small sources or sources spread out across the landscape.

Potential pollution hazard means an animal feedlot or manure storage area that:

(1) Does not comply with the requirements of the Minn. Admin. Rules §§ 7020.2000 to 7020.2225 and has not been issued a state disposal system or national pollutant discharge elimination system permit establishing an alternative construction or operating method; or

(2) Presents a potential or immediate source of pollution to water of the state as determined by an inspection by the state pollution control agency or the environmental services department taking into consideration the following:

   a. The size of the animal feedlot or manure storage area;

   b. The amount of pollutants reaching or that may reach waters of the state;

   c. The location of the animal feedlot or manure storage area relative to waters of the state;

   d. The means of conveyance of animal manure or process wastewater into waters of the state; and

   e. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal manure or process wastewater into waters of the state.

Public waters means any waters as defined in M.S.A. § 103G.005(14) and (15). However, no lake, pond or flowage of less than ten acres in size in municipalities and 25 acres in size in unincorporated areas need to be regulated for the purposes of Minn. Admin. Rules §§ 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland may, at the discretion of the local government, be exempted from Minn. Admin. Rules §§ 6120.2500 to 6120.3900.

Public well is regulated by Minn. Admin. Rules ch. 4720, and as administered by the state department of health.

Residence means a place where a person lives; a home.

Riparian means land contiguous to the bank of a stream, the shore of a lake, or the edge of a wetland.

Sensitive area means shorelands; delineated floodplains; federal, state or local wild and scenic river districts within 1,000 feet of a karst feature (sinkhole, cave, disappearing spring, resurgent spring, karst window, dry valley or blind valley); and vulnerable parts of delineated drinking water supply management areas.

Separation distance to bedrock means the distance between stored manure and fractured bedrock.

Setbacks means the minimum horizontal distance between a manure storage structure and/or open feedlot and the nearest specified lot line, road centerline, abutting property, ordinary high water level of a lake or stream, top of bluff or other entity.

Shoreland means land, as defined in M.S.A. § 103F.205(4), located within the following distances from the ordinary high water elevation of public waters:

(1) Land within 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and

(2) Land within 300 feet from a river or stream, or the landward extent of a floodplain delineated by ordinance on a river or stream, whichever is greater.

Short-term stockpiling sites means a manure storage area where manure is stored or processed according to Minn. Admin. Rules § 7020.2000(3).

Sinkhole means a surface depression caused by a collapse of soil or overlying formation above fractured or cavernous bedrock.

Solid manure means manure with less than 80 percent moisture content.

Special protection area means land within 300 feet of all:

(1) Protected waters and protected wetlands as identified on the department of natural resources protected waters and wetland maps; and

(2) Intermittent streams and ditches identified on the U.S. Geological Survey quadrangle maps, excluding drainage ditches with berms and segments of intermittent streams, which are grassed waterways; and

(3) As defined by the board.

State disposal system permit or *SDS permit* means a state permit that may be processed in accordance with Minn. Admin. Rules §§ 7001.0040, 7001.0050, 7001.0100(4) and (5), and 7001.0110.

Surface waters means waters, which include, but are not limited to, rivers, creeks, ponds, intermittent streams and wetlands of Type III to VII as defined in the state department of natural resources Circular 39.

Unpermitted or noncertified liquid manure storage area means a liquid manure storage area that is in operation and:

(1) The owners/operators do not have an agency or delegated county feedlot permit for the manure storage area and were required to apply for and obtain a feedlot permit prior to the construction or the manure storage area; or

(2) The owners/operators have not complied with preoperational requirements of Minn. Admin. Rules § 7020.2100 or permit requirements if applicable.

Unused/abandoned feedlot means any preexisting animal feedlot located within one mile of any incorporated municipal boundary or within one mile of the unincorporated areas of Gordonsville, London, Maple Island or Oakland in the county that has been abandoned or unused for a period of two years or more. The term "unused/abandoned feedlot" also means an animal feedlot that is located outside the one-mile limit of an incorporated municipal boundary or unincorporated area that has been abandoned or unused for livestock production for a period of five years or more.

Variance means a modification of a specific permitted development standard required in an official control, including this article, to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the propose of alleviating a hardship, practical difficulty or unique circumstances as defined and elaborated upon in a community's respective planning and zoning enabling legislation. The term "variance" means the same as that term is defined or described in M.S.A. ch. 394.

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

Wetland means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purpose of this article, the term "wetland" must:

(1) Have a predominance of hydric soils;

(2) Be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation; and

(3) Under normal (undisturbed) circumstances, support a prevalence of hydrophytic vegetation.

(Ord. No. 15, art. 17, § 4, 1-19-2010)

Sec. 42-550. - Policies.

(a) *When permit required.* A county feedlot permit is required when:

(1) Animal feedlots have more than ten animal units.

(2) Seeking to establish a new animal feedlot.

(3) Seeking a change in operations or expansion of an existing animal feedlot.

(4) Seeking to commence construction at an existing animal feedlot (no increase in animal numbers).

(5) Seeking a change in ownership of an existing animal feedlot.

(6) A complaint or report of a pollution hazard has been received by the county or the state pollution control agency and action to correct the pollution hazard has been ordered by the county or the state pollution control agency.

(b) *Environmental workshop required.* The owners/operators of a new or expanding animal feedlot or potential pollution hazard site shall be required to attend an environmental quality assurance workshop or other environmental workshops approved by the environmental services department. An interim permit will be issued to the applicant and, upon completion of the training, will receive a county feedlot permit. Current feedlot owners/operators having a state pollution control agency permit or certificate of compliance, or a county feedlot permit or certificate of compliance are encouraged to attend a training session.

(c) *Registration.* All animal feedlot owners/operators are required to complete the state pollution control agency feedlot registration form every four years.

(d) *Animal feedlot.* An animal feedlot shall not exceed 3,000 animal units. This limit may be increased by 500 animal units to a total of 3,500 animal units if the following criteria are met:

(1) A conditional use permit is obtained.

(2) Documented odor reduction practices are implemented.

(3) Documented environmental practices are implemented.

(e) *Permitted uses.* Animal feedlots are permitted uses in agricultural zoning districts only.

(1) Buildings which house animals may be replaced, provided manure storage requirements are met, the animal units do not increase, and the building area does not increase.

(2) Minor expansions. The cumulative total of all minor expansions shall not exceed 200 animal units. A conditionally permitted animal feedlot site may expand up to 200 animal units with county board approval.

(3) Expiration dates on permits with construction not completed (outstanding old permits). State pollution control agency feedlot permits or certificate of compliance that were issued with no expiration dates are valid. However, the animal feedlot must meet the regulations of current Minn. Admin. Rules ch. 7020 and this article.

(4) Requirements to obtain a county feedlot permit:

a. Complete a state pollution control agency permit application for an animal feedlot or manure storage area.

b. Complete an animal feedlot operation and manure management plan according to the Manure Management Section VIII B of the state pollution control agency permit application for an animal feedlot or manure storage area.

1. Detailed diagram of the animal feedlot site on a parcel map to include all existing buildings, houses, barns, garages, sheds, lean-tos, water wells, grain bins, direction of surface water flow, tile inlets, open waters, wetlands, ditches and driveways.
2. Manure pumping notification requirements must follow Ambient Air Quality Standards in Minn. Admin. Rules § 7020.2002.
3. An odor management plan which shall include a statement of:
    (i) Potential odor sources.
    (ii) Control measures.
4. A dead animal disposal plan which shall provide that dead animals shall be disposed of according to the state board of animal health Chapter 1719.1900. The disposal plan shall include:
    (i) *Mortality plan.* All animal feedlot owners/operators shall submit a mortality plan on a form provided by the environmental services department. At no time shall feedlot animal mortality be visible to the public from any public area or neighboring residence, except during a catastrophic death and notice has been given to the state animal board of health and the environmental services department within 24 hours of the occurrence.
    (ii) *Transportation.* Carcasses and discarded animal parts may only be transported over public roads in vehicles or containers that are leakproof and covered.
    (iii) *Pickup.* Dead animals picked up by a licensed rendering company require a wood, metal, fiberglass and/or plastic structure. Carcasses left at an off-site pickup point must be in an animal-proof enclosed area that is at least 200 yards from a neighbor's buildings. Carcasses must be picked up within 72 hours, except if the enclosed area is refrigerated to less than 45 degrees Fahrenheit, the carcasses must be picked up in seven days.
    (iv) *Dead animal containment.* Rendering pickup structures shall meet the following minimum standards:
        A. At all times structure shall be animal-proof to prevent scavenging;
        B. Sides shall be made of a solid material with no more than one-quarter-inch spacing between materials;
        C. Structure shall contain a roof made out of solid material allowing no more than one-quarter-inch spacing. A rendering pickup structure shall be exempt from having a roof if side walls are a minimum if six feet high;
        D. Floor shall be made of low permeability material;
        E. Structure shall be located out of the road right-of-way; and
        F. Structure setback from streams, rivers, drainage ditches and lakes shall be a minimum of 300 feet.
    (v) *Burial of animal mortality.* Burial of animal mortality is prohibited unless the environmental services department has given written approval of the site.
        A. Carcasses must be buried five feet above seasonal high water table;
        B. Carcasses must be buried at least three feet deep;
        C. Prohibited in areas subject to surface water flooding;
        D. Not to be placed in sandy or gravelly soil types; and
        E. Must be covered each day with a layer of dirt.

(vi) *Incineration of animal mortality.* Burning of animal mortality is allowed only in state pollution control agency approved incinerators:

A. Capable of producing emissions not to exceed 20 percent opacity;

B. Fitted with an afterburner that maintains flue gasses at

(vii) *Operation protocol.* The owners/operators shall have a written protocol for the operation containing at least the minimum steps listed below and instructing all employee to follow the protocol. Composting of animal mortality shall meet the following:

A. Mortalities must be processed daily;

B. A base of litter is required. The carcasses or discarded animal parts and litter plus bulking agent are added in layers so that the carbon to nitrogen ratio of 15 to one to 35 to one optimal 23 to one must be maintained;

C. The carcass or discarded animal parts must be kept six inches from the edge and sealed with litter each day;

D. The temperature should be taken and recorded on site daily. The compost temperature must reach a minimum of 130 degrees Fahrenheit for seven to ten consecutive days in each heat cycle are needed in order to process the carcasses and kill the pathogens The temperature drop indicates the time to mix and move the compost. A minimum of two heat cycles shall be required; and

E. Finished product must not contain visible pieces of soft tissue and must be land applied at agronomic rates.

(a) The composting structure shall:

(1) Be built on an impervious, weigh bearing pad that is large enough to allow equipment to maneuver;

(2) Be covered with a roof to prevent excessive moisture on the composting material;

(3) Be built of rot resistant material that is strong enough to withstand the force exerted by the equipment; and

(4) Be large enough to handle each day's mortality through the endpoint of the composting that consists of a minimum of two heat cycles.

(b) The composting structure shall have the following setbacks:

(1) Residences (other than the owners/operators: 300 feet;

(2) Public road (from the centerline): 125 feet;

(3) Rear and side yards: 40 feet; and

(4) Existing feedlot under separate ownership: 300 feet.

c. All proposed construction, expansion, modification or repair of a liquid manure storage structure must include plans and specifications for liquid manure storage area with the permit application for an animal feedlot or manure storage area meeting the requirement in Minn. Admin. Rules § 7020.2100. Proposed poultry barn floors must meet the requirements in Minn. Admin. Rules § 7020.2120. The design plans for manure storage facilities must be completed by a design engineer (except concrete-lined structures having a capacity of less than 20,000 gallons). Standards for constructing liquid manure storage structures shall include:

1. Seepage limits for proposed liner types.
2. Plans and specifications designed by a stamped and signed state-licensed engineer.
3. Soil borings.
4. Construction inspections.
5. Notifications and reports.
6. Location restrictions.
7. Separation to bedrock restrictions.

d. A tile water sample from earthen or concrete manure storage basins shall be required prior to the basin being utilized for manure storage and any time after the basin is used for manure storage. Tile water shall include a certified laboratory analysis for:

1. Nitrate Nitrogen.
2. Fecal Coliform Bacteria.
3. Other water quality parameters as determined by the state pollution control agency, county environmental services department or other government agencies.

e. A 12-inch diameter vertical access port shall be installed between the manure storage basin and connection to any field tile lines for sampling purposes if the perimeter tile does not go to daylight. The access port shall be secured by the owners/operators and be easily accessible for sampling.

f. A perimeter fence shall be installed around any open earthen or concrete manure slurry basin.

1. Fencing shall be a minimum of five feet high and impenetrable by children. Example of such fencing would include, but not be limited to, cyclone fencing, slatted fencing with less than four-inch openings, or solid fencing.
2. Fencing shall be posted with signs every 100 feet stating danger.
3. An existing open earthen or concrete manure slurry basin shall have 18 months after adoption of the ordinance from which this article is derived to install a perimeter fence. Compliance date is June 20, 2007.

g. Upon termination of a written manure spreading agreement or manure sold under sales contract, feedlot owners/operators shall provide the environmental services department with written proof that sufficient land is owned or under lease or contract to meet the manure utilization requirement for spreading of manure produced at the feedlot site.

1. Conditional uses. A conditional use is required when:
   (i) An animal feedlot or manure storage area with more than 200 animal units is proposed.
   (ii) A feedlot site that has been inactive for five years or more with a proposed 200 or more animal units.
   (iii) The buildings which house the livestock are located outside of the farmyard.
   (iv) A proposed animal feedlot or manure storage area that has a different parcel number.
   (v) A cumulative increase or total population of 200 animal units or more is proposed at the existing feedlot site.
   (vi) Any expansion of an existing animal feedlot located within one mile of the following listed public parks: Pickerel Lake, Whites Woods, Arrowhead Point, Myre Big

Island State Park and Saint Nicholas; if the cumulative total exceeds 200 animal units. The total number shall not exceed 1,000 animal units.

(vii) Any expansion of an existing animal feedlot located within any shoreland district, if the cumulative total of exceeds 200 animal units. The total number shall not exceed 1,000 animal units.

(f) *Prohibited sites.* No new animal feedlot permits will be issued in the following areas:

(1) 100-year floodplain district.

(2) Wetland.

(3) In a shoreland:

a. Within 300 feet of a river or stream.

b. Within 1,000 feet of a lake, pond or flowage.

(4) Within 300 feet of a sinkhole.

(5) Within 100 feet of a private well.

(6) Within 300 feet tile inlet.

(7) Within 1,000 feet of a community water supply well serving a school or licensed childcare center, unless the following condition is met: The state department of health has approved a drinking water supply management area for the well under Minn. Admin. Rules ch. 4720.5360.

(8) "UR 1" Urban Expansion District 1, "UR 2" Urban Commercial Expansion District 2 and "UR 3" Urban Expansion Distict 3.

(9) "RH" Country Homes District.

(10) "B-1" General Business District and "B-2" Highway Business District.

(11) "I" Industrial District.

(12) "R-1" Rural Residence District.

(13) No new animal feedlots sites within one mile of any incorporated municipal boundary or within one mile of the unincorporated areas of Gordonsville, London, Maple Island, or Oakland in the county. No new feedlot permits within one-half mile of the following listed Public Parks: Pickerel Lake, Whites Woods, Arrowhead Point, Myre Big Island State Park and Saint Nicholas.

(14) No expansion or total accumulation of any permitted or unpermitted existing animal feedlot sites which exceed 300 animal units shall be allowed, if the feedlot is located within one mile of an incorporated municipal boundary or are located within one mile of the unincorporated areas of Gordonsville, London, Maple Island, or Oakland in the county, or within one-fourth mile of any residentially zoned district.

(15) No expansion of an existing feedlot shall expand beyond 1,000 animal units or more within one-fourth mile (1,320 feet) of any residential dwelling. The total shall not exceed 1,000 animal units. No new animal feedlots shall be allowed within one-fourth mile (1,320 feet) of any dwelling on adjoining property. Exception: Principal feedlot owner, spouse, or immediate family member dwellings. The county shall consider separate buildings within the one-fourth mile setback as one feedlot.

(g) *Conditional use permits.* A conditional use permit application shall include:

(1) Permitting requirements in Subdivision 4. D. of this Ordinance are included.

(2) The county interim permit, if applicable.

(3) A completed state pollution control agency permit application for an animal feedlot or manure storage area and required documents.

(4) A state disposal system permit (SDS), if applicable.

(5) National pollution discharge elimination permit (NPDES), if applicable.

(6) Environmental assessment worksheet (EAW). Minn. Admin. Rules ch. 4410 states that a mandatory environmental assessment worksheet must be followed when required.

(7) Documentation that all property owners within one mile (5,280 feet) have been contacted in regards to the proposed project.

(h) *Pollution control requirements.*

(1) No animal feedlot or manure storage basin shall be located, operated, or constructed so as to create or maintain a potential pollution hazard.

(2) Construction of a new or an expansion of an existing earthen basin, open air clay or flexible membrane lined lagoon, for swine are prohibited in the county.

(3) Manure shall not be applied in such a manner that will cause pollution of waters of the state due to runoff of precipitation or snowmelt containing manure.

(4) A commercial animal waste technician license is required when applying liquid or solid manure or process wastewater onto land not owned or leased by the owner of the animal feedlot or the manure storage area from which the manure or process wastewater is produced. All persons who own and/or operate a manure applicator for hire shall abide by all land application procedures established by this article and any other applicable statute or rule.

(5) Vehicle spreaders. All vehicles used to transport animal manure on township, state, and interstate throughfares shall be leakproof.

(6) Manure storage. Animal manure, when utilized as domestic fertilizer, shall not be stored for longer than one year.

(7) Owners/operators' responsibility. The owners/operators of any animal feedlot shall be responsible for the storage, transportation, and application (agricultural crop nutrient requirements) of all manure generated at the site.

(8) All existing animal feedlots within the county shall comply with minimum standards set forth within Minn. Admin. Rules ch. 7020 and this article.

(9) Good neighbor policy.

a. Prior to manure application, all animal feedlot operators shall consider the direction of the wind toward individual dwellings, residential areas, cities and churches.

b. Injection of liquid manure or immediate incorporation of liquid or solid manure (within 24 hours after application) is recommended for all feedlot operators under 300 animal units.

(i) *Required setback distances for a new animal feedlot or expansion of an existing site.*

(1) No new animal feedlots or manure storage areas shall be closer than 100 feet from any private well. This includes unsealed wells.

(2) No animal feedlot shall be closer than 1,000 feet from any public well.

(3) A new building to house animals or store manure more than 100 feet in length shall have 200 feet of open space from the road right-of-way. The first 100 feet adjacent to the road right-of-way shall be vegetation. The open space may consist of vegetation, gravel or hard surface.

(4) On an existing site, a new building more than 100 feet in length to house animals or store manure shall have 200 feet of open space from the road right-a-way or be located behind an existing buildings. Existing buildings or structures are exempt from this requirement.

(5) New established sites between May 2, 1995, and January 1, 2001, shall have a minimum setback distance of 100 feet from the road right-a-way line.

(6) No new animal feedlots or manure storage areas shall be closer than 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(7) Public waters setback requirements, see section 42-524(j).

TABLE 1 - Manure Application Separation Distance (feet)

	Surface Spreading Liquid	Incorporation or Injection	Surface Spreading Solid
Streams or rivers	300	50	300
Lakes	300	100	300
Water wells	300	300	300
Sinkholes	300	50	300
Channeled flow of surface water directly to the waters of the state	300	50	300
Ditches, streams and rivers	300	50	300
Surface water inlets	300	50	300
Individual dwelling**	1,000	300	300
Churches**	1,000	300	300
Residential development**	1,000	300	300
The following listed parks:	1,000	300	1,000
Pickerel Lake Park			
Whites Woods Park			
Arrowhead Point Park			
Myre Big Island State Park			

Saint Nicholas Park			
All incorporated cities	1,000	300	1,000
The following listed unincorporated cities:	1,000	300	1,000
Gordonsville, London			
Maple Island, Oakland			

* See Table 2 on setbacks for surface waters.

** Distance may be reduced with written permission from the property owner.

TABLE 2 - Separation Distances from Surface Waters for the Surface Application of Manure

Slope (percent)	Soil Texture	Time of Year	Minimum Separation (feet)
0—6%	Coarse	April—November	300
	Medium to fine	April—November	300
Over 6%	Coarse	April—November	300
	All soils	December—March	300

Note: All animal feedlots with 300 to 999 animal units must inject or immediately incorporate liquid manure during the months of April through November.

Exception: Surface application of manure is permitted on hayground and ridge-till systems.

All animal feedlots with 1,000 animal units or greater require injection or immediate incorporation of liquid manure.

All December—March manure application parcels shall comply with the U.S. Department of Agriculture Standard 393 filter strips. Maximum gallons per acre shall not exceed 6,000 gallons of liquid manure or 25 tons of solid manure.

(j) *Restrictions on manure application sites.*

(1) Manure shall not be applied to the rights-of-way of public roads.

(2) Manure applications shall not exceed University of Minnesota Extension Service recommended agricultural rates for crop nutrients.

(3) Manure applications on highly readable land shall follow agricultural stabilization and conservation service plans for that site.

(k) *Standards for earthen storage basins and concrete pits.*

(1) Building standards for these structures shall be in compliance with the state pollution control agency requirements.

(2) New manure storage pits shall provide a minimum of 12 months storage capacity for earthen basins and ten months storage capacity for totally enclosed concrete basins. The total storage capacity of the feedlot site shall meet those requirements.

(l) *Stockpiling of manure.* Stockpile runoff cannot discharge to waters of the state. Specific location, design, construction, operation and maintenance requirements apply based on the type of stockpile (short-term or permanent).

(1) *Short-term.* By October 1, 2001, manure can only be stockpiled for up to one year of the date when the stockpile was initially established. A vegetative cover must be established for at least one full growing season prior to reuse. The property owners/operators shall show proof that manure was not stockpiled for more than one year.

(2) *Permanent.* Manure is stockpiled in the same location for more than one year or the same site is used year after year. The owners/operators must install, if necessary, a liquid manure storage area to contain manure-contaminated runoff.

(m) *Animal feedlot inspections.* The county environmental services department shall make an on-site review of any feedlot operation in the following circumstances:

(1) Any new animal feedlot application is received.

(2) When a complaint is received.

(3) Existing animal feedlots shall be inspected according to Minn. Admin. Rules 7020.

(n) *Variances.*

(1) Only the state pollution control agency, state department of natural resources and state department of health may grant variances from water quality standards.

(2) The board of adjustments may grant variances from dimensional standards of this article when a hardship exists that the animal feedlot owners/operators did not create.

(3) The board of adjustments will hear appeals from an aggrieved person or official regarding interpretation of this article.

(o) *Transportation of manure into the county.* Any person that transports manure into the county with the intent of storing or spreading said manure shall complete a manure management plan and comply with all provisions in the Minn. Admin. Rules ch. 7020 and this article.

(p) *Owners/operators' responsibility.* Upon abandonment termination, or non-renewal of any permit or certificate necessary to operate an animal feedlot, or failure to operate the feedlot in any manner consistent with these ordinances or with state and federal regulations, the landowner and the owners/operators of any feedlot shall remain responsible for all costs of closure, cleanup or other costs necessary to bring this property into compliance with all federal, state and county regulations, and to restore the property to a suitable use.

(Ord. No. 15, art. 17, § 5, 1-19-2010; Res. No. 11-200, 9-6-2011)

Sec. 42-551. - Enforcement.

(a) When any feedlot is found in violation of this article, there shall be a reasonable time period during which technical assistance by the state department of agriculture, state pollution control agency, University of Minnesota Extension Service, Soil and Water Conservation District, or the environmental services department will assist to mitigate the problem. If the feedlot owner/operator does not request assistance or does not correct any violation it will be deemed a violation.

(b) Regardless of the original date that animals were kept at the site, each parcel of property located within the county requires an interim permit, a county feedlot permit, state disposal system (SDS) or a national pollutant discharge elimination system (NPDES) permit issued for the operation of a feedlot.

(Ord. No. 15, art. 17, § 7, 1-19-2010)

Secs. 42-552—42-580. - Reserved.

ARTICLE VII. - ESSENTIAL SERVICES

Sec. 42-581. - Scope of regulations.

For purposes of this article, essential service facilities shall be classified into two categories (major and minor essential service facilities) and regulated according to the procedures described in this article.

(Ord. No. 15, art. 18, § 1, 1-19-2010)

Sec. 42-582. - Exempt from regulations.

Required maintenance or rebuilding of any major or minor essential service facility, when such maintenance or rebuilding does not change, expand the capacity or change the capability or location of the existing facility, shall be exempt from the regulation of this article so long as the integrity and function of the drainage system is not impaired and public safety and protection do not require compliance.

(Ord. No. 15, art. 18, § 2, 1-19-2010)

Sec. 42-583. - Major essential service facilities procedure.

Applications for locating any major essential service line or essential service structure in any zoning district shall require a conditional use permit as regulated in article VIII of this chapter in addition to being governed by the following procedures. Pipelines, as defined in M.S.A. § 216G.01(3), shall conform to procedures identified in M.S.A. chs. 216G and 299J in addition to this article.

(1) The applicant shall, on forms provided by the county, file an application, in duplicate, with the county planning and zoning administrator. The application shall include such maps indicating location, alignment, and type of service proposed, together with the status of any applications made or required to be made under state or federal law to any state or federal agency. The application shall provide the name, address and telephone number of a contact person to which post construction inquiries related to exact location and depth of essential service facilities may be addressed. The application, in the case of pipelines other than water, shall outline a contingency plan, including steps to be taken in the event of a failure, leak, or explosion occurring during operation of the pipeline. The operator of the pipeline shall demonstrate its capability and readiness to execute the contingency plan. The county shall have 60 days from the date of the initial completed application to accept, reject or modify the application.

(2) One set of the information required in subsection (1) of this section shall be furnished to the county engineer, who shall review the information and forward his comments and recommendations to the county planning commission and county board.

(3) The maps and accompanying data, shall be submitted to the county planning commission for review and recommendations regarding the relationship to urban growth, land uses, drainage systems, highways and recreation and park areas.

(4) Following such review, the planning commission shall make a report of its findings and recommendations on the proposed major essential service line and essential service structures and shall file such report with the county board.

(5) Upon receipt of the report of the planning commission on the essential service line or structures, the county board shall consider the application, maps and accompanying data and shall indicate to the applicant its approval, disapproval, or recommend modifications considered desirable to carry out the intent of this article.

(Ord. No. 15, art. 18, § 3, 1-19-2010)

Sec. 42-584. - Provisions for major essential service construction.

(a) *Standards.* For major essential service lines, the board establishes the standards for construction as outlined in Figure 1 of the ordinance from which this article is derived which is hereby made a part of this article.

(b) *Conditions.* In addition to the standards as provided for in said Figure 1, the following conditions shall apply to major essential service lines:

(1) All drainage systems shall be repaired to pre-construction condition as soon as possible after construction.

(2) Rocks, slash and other construction debris shall be removed from each individual section of land where construction takes place within 90 working days of the commencement of major essential service construction on that individual section of land. For purposes of this subsection, working days are defined as all days except days between November 15 and April 15 (winter), or any day when more than one-fourth-inch of precipitation has fallen. For purposes of this subsection, section of land is defined as a numbered section as defined by the government land survey, or a portion thereof.

(3) Shelterbacks, windbreaks, fences and vegetation shall be restored to pre-construction condition with the following exceptions:

a. Shelterback and windbreak replacement shall be to pre-construction density and may allow for operation maintenance of essential service lines.

b. Critical areas (slopes greater than 12 percent, drainage ditch banks and areas subject to severe erosion) shall be seeded and mulched as soon as possible after construction. Drainage ditch banks shall be seeded and mulched a minimum of 16.5 feet in width from the top of the ditch soil banks on each side of the ditch.

c. The county engineer may require ditch bottoms to be sodded when slopes are over three percent. Existing lawns shall also be re-sodded.

(4) If preliminary engineering, surveys or other documentation is provided, modifications to accommodate future drainage or roadway construction activities may be required.

(5) Major essential service construction activities shall be conducted in such a manner as to minimize impacts on livestock movements and access to agricultural fields.

(6) Construction authorized for any major essential service facility shall be according to the written plan on file in the office of the county planning and zoning administrator.

(7) All essential services shall be set back 30 feet from the centerline of any buried public drain tile or 50 feet from the top edge of an open public ditch.

(8) The following conditions may be attached to underground major essential service facilities:

a. All public and private roads in use and being maintained shall be bored unless the board of county commissioners approves an alternate procedure, but those unpaved roads that are infrequently used and not regularly maintained may be cut, backfilled and compacted with material to the county highway engineer's specifications. All open ditches that are part of a drainage system shall be bored.

b. Each installation under a public road shall be made in such fashion so as to meet with the approval of the county highway engineer. The county highway engineer will also require additional permits and bonding requirements for all county state aid highways and county roads. If a township road shall be involved, the town board where the road is located shall approve or disapprove of the method of installation.

c. If at any time the county, acting through its board of county commissioners, shall deem it necessary or desirable to make any improvements or changes on all or any parts of the right-of-way of the county highway or drainage system, including changes made for purposes of providing drainage, or within 100 feet of the highway right-of-way which affect the major essential service facility, then, and in such event, the owner shall, within 45 days after written notice from the board of county commissioners or its authorized agent, proceed to alter, change, vacate or remove said major essential service facility from the county highway right-of-way or drainage system, so as to conform to said county highway or drainage system changes and as directed by the board of county commissioners. In the event of relocation of a road, road right-of-way, or drainage system that will require relocation or other change in the major essential service facility thereof, all costs for relocation will be paid by the owner.

d. The owner shall file with the county highway engineer, the county zoning administrator, and the clerk of the township board of the township affected as-built drawings of the major essential service facility after construction, which shall include a surveyor's description of the course of the major essential service facility as it traverses the county.

e. If in the construction of the major essential service facility, an open drainage ditch is traversed, the owner shall lay its major essential service facility below the original bottom of the drainage ditch as designed, and the method of construction shall not impede the normal flow of water.

f. If the major essential service facility shall need to be moved, relocated or improvements otherwise made thereon as a result of the establishment, improvement or repair of any drainage systems, the expense thereof shall be the expense of the owner not withstanding the fact that the major essential service facility is located on private property and more than 100 feet from highway right-of-way.

g. All tile lines or other drainage systems which are cut or disturbed by the owner in the exercise of any rights acquired through easement or condemnation shall be restored and repaired to the previous condition and operable state without cost to the landowner or drainage authority.

h. When an existing tile line is cut, the tile shall be repaired by the owner using a method which will prevent settling of any portion of the tile system. When tile lines are cut and before repairs are made, tile openings shall be protected to prevent dirt, silt or animals from entering the tile system.

i. The pipeline shall be installed to accommodate future installations of drain tile at locations and depths as shown on title plans given to the major essential service facility by the landowner or by the drainage authority. If a public or private drainage system shall later be established, improved or repaired or additional lines installed to effect proper drainage, the major essential service facility shall reimburse the drainage authority or landowner for any

necessary additional installation expenses incurred which are directly attributed to the presence of the pipeline.

j. If settling of tile repair occurs after the major essential service facility construction, the owner shall repair without expense to the landowner of the drainage authority and shall pay all losses caused by the settling.

k. During construction, the owner shall provide suitable crossovers installed at such places over the pipeline trench as needed by the landowner.

l. The major essential service facility shall be installed at least 250 feet from every inhabited dwelling.

m. The owner shall indemnify, keep and hold the county, each township crossed by the major essential service facility, and every public ditch system free and harmless from all claims resulting from injury or damage to persons or property caused by the construction, maintenance, repair, or operation of the major essential service facility system, except where the acts or omissions of said county, township, or drainage authority have caused the injury or damage.

n. The owner shall indemnify and hold harmless the landowner, his family, tenants, and employees from and against all claims resulting from the presence of the major essential service facility and caused by the ordinary negligence of the landowner, his family, tenants and employees while engaged in normal farming operations, excluding drainage, improvements, drilling or blasting activities. In addition, where the landowner gives the owner two weeks' certified or registered mailed notice of intent to engage in any specified excluded farming activity or the easement right-of-way or adjacent thereto, the owner will indemnify and hold harmless the landowner, his family, tenants and employees from all claims for damages resulting from the preservation of the major essential service facility and caused by the specified activity for which notice was given. In the event the landowner notified the owner of the need for emergency repairs to drainage ditches or tile, such indemnification shall be provided by the owner upon 48 hours' notice. Emergency repairs shall include repairs necessary to avoid delays in preparation of the soil and planting and harvesting of crops where the need for emergency repairs are specified in the notification.

(Ord. No. 15, art. 18, § 4, 1-19-2010)

Sec. 42-585. - Variances.

(a) Waiver of depth requirement. In any easement granting right-of-way for a pipeline over agricultural land the grantor of the easement may waive the minimum depth of cover established in Figure 1 of the ordinance from which this article is derived with respect to all or part of the pipeline to be buried under that land, except that the depth between a pipeline and a drainage system may not be waived without express written consent by the drainage authority. A waiver of the minimum depth of cover established in said Figure 1 shall be effective only if the waiver:

(1) Is separately and expressly stated in the easement agreement and includes an express statement by the grantor acknowledging that he has read and understood the waiver.

(2) Is printed in capital letters and in language understandable to an average person not learned in law.

(3) Is separately signed or initialed by the grantor.

(b) Variances from standards established in said Figure 1 may be granted upon a showing that:

(1) A depth or height less than that required in said Figure 1 is reasonably necessary to allow transition from the county to a bordering county.

(2) A variance is reasonably necessary to allow for a transition in depth from agricultural land for which a waiver has been granted according to this subsection and adjoining parcels of land.

(3) A variance is reasonably necessary for the installation of necessary essential service structures or appurtenances and the variance is for the immediate vicinity of the essential service structure.

(c) No variance shall be granted so as to allow any major essential service line to be placed at a depth less than the depth established in Figure 1 beneath the authorized depth of drainage systems or the right-of-way of roads under the jurisdiction of the county.

(Ord. No. 15, art. 18, § 5, 1-19-2010)

Sec. 42-586. - Inspections.

The board may require that a qualified inspector be on the site of installation of major essential service lines or structures. The board will establish a fee schedule for inspections consistent with applicable state laws and county policies. With respect to pipelines, the following shall apply: Before beginning construction a person proposing to construct a pipeline shall pay an inspection fee to the county treasurer. The fee shall be in the amount as provided in the county fee schedule for each mile or fraction of a mile of pipeline that will be constructed in the county. The county board shall designate an inspector who shall conduct on-site inspections of the construction to determine whether the pipeline is constructed in compliance with the provisions of this article. The inspector shall promptly report to the county board any failure or refusal to comply with the provisions of this article and shall issue written notice to the person constructing the pipeline specifying the violations and the action to be taken in order to comply. During on-site inspection, the inspector shall maintain a written log which shall include a record of comments and complaints concerning the pipeline construction made by owners and lessees of land crossed by the pipeline and by local officials. The log shall note in particular any complaints concerning failure to settle damage claims filed by any owner or lessee or failure to comply with the terms of an easement agreement. The log reports and other records of the inspector shall be preserved by the county board.

(Ord. No. 15, art. 18, § 6, 1-19-2010)

Sec. 42-587. - Minor essential service facilities procedure.

Applications for locating any minor essential service line or structure in any township or county easement or right-of-way shall be governed by the following procedures:

(1) The applicant shall file with the county engineer, on forms supplied by the county, an application for such permit accompanied by maps and drawings, if available, indicating the locations, alignment and type of service proposed.

(2) The application and accompanying data shall be reviewed by the county engineer and the county engineer may issue the permit after determining that the application is acceptable and in the best interests of the county.

(3) The county engineer may require in conjunction with issuance of such permit that:

a. The applicant submit as-built drawings of the essential service after construction.

b. The applicant constructing the minor essential service is to take into consideration contemplated widening, regrading or relocation of a county highway or county state aid highway and repair, maintenance, and improvement of drainage systems.

(4) Recognizing the need for adequate and timely service by owners of essential services, the county engineer shall act upon permit applications at the earliest opportunity.

(Ord. No. 15, art. 18, § 7, 1-19-2010)

Sec. 42-588. - Enforcement.

Any person violating the provisions of this article is guilty of a misdemeanor for each offense and may be subject to civil liability consistent with M.S.A. § 216G.07. Consistent with M.S.A. § 216G.07, this article may be enforced by injunction, action to compel performance or other appropriate equitable relief in the district court of the county.

(Ord. No. 15, art. 18, § 8, 1-19-2010)

Secs. 42-589—42-609. - Reserved.

ARTICLE VIII. - CONDITIONAL AND INTERIM USES[1]

Footnotes:

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Editor's note— Ord. No. 2016-01, adopted August 16, 2016 changed the title of art. VIII from "Conditional Uses" to "Conditional and Interim Uses."

Sec. 42-610. - Conditional or interim uses.

Within the unincorporated area of the county, all uses except permitted uses shall be required to obtain a conditional or interim use permit approved by the board of county commissioners.

An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. This is allowed by M.S.A. 394.303.

The county board of commissioner may grant permission for an interim use of property if:

(1) The use conforms to the zoning regulations;

(2) The date or event that will terminate the use can be identified with certainty;

(3) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and

(4) The user agrees to any conditions that the governing body deems appropriate for permission of the use.

Any interim use may be terminated by a change in zoning regulations.

(Ord. No. 15, art. 23, § 1, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-611. - Application.

Applications for conditional or interim use permits shall be made to the zoning administrator, together with required fees. The application shall be accompanied by a site plan showing such information as is necessary to show compliance with this article, including, but not limited to:

(1) Legal description of the property.

(2) Site plan drawn at scale showing parcel and building dimensions.

(3) Location of all buildings and their square footage.

(4) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.

(5) Landscaping and screening plans.

(6) Drainage plan.

(7) Sanitary sewer and water plan with estimated use per day.

(8) Soil type.

(9) The applicant shall obtain all necessary state and federal permits and provide such other information as necessary and reasonable to adequately review the requests.

(Ord. No. 15, art. 23, § 2, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-612. - Notification and public hearing.

(a) Upon receipt of proper form of the application and other required material, the planning commission shall hold at least one public hearing in a location to be prescribed by the planning commission. Such public hearing may be continued from time to time and additional hearings may be held.

(b) At least ten days in advance of each hearing, notice of the time and place of such hearing shall be published in the official newspaper of the county.

(c) All property owners of record within 500 feet of the incorporated areas and/or one-quarter mile of the affected property or to the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners of unincorporated areas where the conditional use is proposed, shall be notified by depositing a written notice in the U.S. mail, postage prepaid, as to the time and place of the public hearing. All municipalities within two miles of the proposed conditional use shall be given proper notice.

(Ord. No. 15, art. 23, § 3, 1-19-2010)

Sec. 42-613. - Approval, disapproval or modification.

The county planning commission shall make its decision upon the application and forward its recommendations to the board of county commissioners. In reporting its recommendations to the board of county commissioners, the county planning commission shall report its findings with respect thereto and all facts in connection therewith, and may designate conditions and require guarantees deemed necessary for the protection of the public interest. Upon receipt of the report of the planning commission, the board of county commissioners shall make a decision upon the application for a conditional or interim use permit.

(Ord. No. 15, art. 23, § 4, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-614. - Findings.

No conditional or interim use shall be recommended by the county planning commission unless said commission shall find:

(1) That the conditional or interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted and not substantially diminish and impair property values within the immediate vicinity.

(2) That the establishment of the conditional or interim use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area.

(3) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

(4) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

(5) That adequate measures have been or will be taken prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

(Ord. No. 15, art. 23, § 5, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-615. - Conditional or interim use permits within floodplains and shoreland.

(a) *Administrative review.* An application for a conditional or interim use permit under the provisions of this article will be processed and reviewed in accordance with this article.

(b) *Factors used in decision-making.* In passing upon conditional or interim use applications, the county board must consider all relevant factors specified in other sections of this article, and those factors identified in section 42-399(c)(5).

(c) *Conditions attached to conditional or interim use permits.* The county board may attach such conditions to the granting of conditional or interim use permits as it deems necessary to fulfill the purposes of this article. Such conditions may include, but are not limited to, the following:

(1) Modification of waste treatment and water supply facilities.

(2) Limitations on period of use, occupancy and operation.

(3) Imposition of operational controls, sureties and deed restrictions.

(4) Requirements for construction of channel modifications, compensatory storage, dikes, levees and other protective measures.

(5) Floodproofing measures, in accordance with the state building code and this article. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(d) *Submittal of hearing notices to the department of natural resources (DNR).* The zoning administrator must submit hearing notices for proposed conditional or interim uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(e) *Submittal of final decisions to the DNR.* A copy of all decisions granting conditional or interim uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(Ord. No. 15, art. 23, § 6, 1-19-2010; Ord. No. 15.104, 10-7-2014; Ord. No. 2016-01, 8-16-2016)

Sec. 42-616. - Compliance.

Any use permitted under the terms of any conditional or interim use permit shall be established and conducted in conformity to the terms of such permit. Violations of such conditions and safeguards, when made a part of the terms under which the conditional or interim use permit is granted, shall be deemed a violation of this article punishable under article XIII.

(Ord. No. 15, art. 23 § 7, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-617. - Review.

A periodic review of the permit and its conditions shall be maintained. The permit shall be issued for a particular use on a specific parcel and not for a particular person or firm.

(Ord. No. 15, art. 23, § 8, 1-19-2010)

Sec. 42-618. - Revocation.

A violation of any condition set forth in a conditional or interim use permit shall be a violation of this article and automatically terminate the permit.

(Ord. No. 15, art. 23, § 9, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-619. - Discontinuance.

A conditional or interim use permit shall become void one year after being granted by the board unless used or if discontinued for a period of 90 days.

(Ord. No. 15, art. 23, § 10, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Sec. 42-620. - Recording.

(a) A certified copy of any conditional or interim use permit shall be filed with the county recorder for record. The conditional or interim use permit shall include the legal description of the property involved.

(b) The zoning administrator shall be responsible for recording with the county recorder any conditional or interim use permit issued by the board.

(c) The zoning administrator shall provide to the applicant a copy of the order issued by the board of commissioners stating that it has been filed with the county recorder's office.

(Ord. No. 15, art. 23, § 11, 1-19-2010; Ord. No. 2016-01, 8-16-2016)

Secs. 42-621—42-643. - Reserved.

ARTICLE IX. - NONCONFORMING USES

Sec. 42-644. - Nonconforming buildings and uses.

(a) The lawful use of buildings or land existing at the effective date of the ordinance from which this article is derived which does not conform to the provisions of this chapter shall be discontinued within a reasonable period of amortization of the buildings, uses of buildings and land which become nonconforming by reason of a change in this chapter shall also be discontinued within a reasonable period of amortization of the building. A reasonable period of amortization shall be construed to begin after the date of adoption of the ordinance from which this article is derived and shall be considered to be 30 years for buildings of ordinary wood construction, 40 years for buildings of wood masonry construction, and 50 years for buildings of fireproof construction.

(b) Buildings found to be nonconforming only by reason of height, yard or area requirements shall be exempt from the provisions of subsection (a) of this section.

(Ord. No. 15, art. 21, § 1, 1-19-2010)

Sec. 42-645. - Nonconforming signs.

(a) Signs existing on the effective date of the ordinance from which this article is derived which do not conform to the regulations set forth in this article shall become a nonconforming use and shall be immediately discontinued. Uses of signs which become nonconforming by reason of a subsequent change in this article shall also be discontinued within a reasonable period of amortization of the sign. The period of amortization for signs shall be not more than:

(1) *Advertising signs.* Five years from the effective date of the ordinance from which this article is derived.

(2) *Business signs.* Five years from the effective date of the ordinance from which this article is derived.

(b) Business signs on the premises of a nonconforming building or use may be continued, but such signs shall not be increased in number, area, height or illumination. New signs not to exceed 35 square feet in aggregate sign area may be erected only upon the complete removal of all other signs existing at the time of the adoption of the ordinance from which this article is derived. Such signs may be illuminated, but no flashing, rotating or moving signs shall be permitted.

(c) No sign erected before the passage of this article shall be rebuilt, altered or moved to a new location without being brought into compliance with the requirements of this article.

(Ord. No. 15, art. 21, § 2, 1-19-2010)

Sec. 42-646. - Nonconforming junkyards.

No junkyard or auto reduction yard may continue as a nonconforming use for more than 60 months after the effective date of the ordinance from which this article is derived, except that it may continue as a conditional use in an industrial or agricultural district if within that period it is completely enclosed within a building or contained within a continuous solid fence and or landscaping not less than eight feet high so as to screen completely the operation of the junkyard. Plans of such building or fence shall be reviewed by the planning commission and approved by the county board before it is erected.

(Ord. No. 15, art. 21, § 3, 1-19-2010)

Sec. 42-647. - Discontinuance.

(a) In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of one year, the use of the same shall thereafter conform to the regulations of the district in which it is located.

(b) In the event that the use of a nonconforming advertising sign structure is discontinued or its normal operation stopped for a period of six months, said structure shall be removed by the owner or lessor at the request of the board of county commissioners.

(Ord. No. 15, art. 21, § 4, 1-19-2010)

Sec. 42-648. - Alterations.

The lawful use of a building existing at the time of the adoption of the ordinance from which this article is derived may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. The foregoing provisions shall also apply to nonconforming uses in districts hereafter changed. Whenever a nonconforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

(Ord. No. 15, art. 21, § 5, 1-19-2010)

Sec. 42-649. - Residential alterations.

Alterations may be made to a residential building containing nonconforming residential units when they will improve the livability of such units; provided, however, that they do not increase the number of dwelling units in the building.

(Ord. No. 15, art. 21, § 6, 1-19-2010)

Sec. 42-650. - Restoration.

No building which has been damaged by fire, explosion, flood, act of God, or the public enemy to the extent of more than 50 percent of its value shall be restored, except in conformity with the regulations of this article.

(Ord. No. 15, art. 21, § 7, 1-19-2010)

Sec. 42-651. - Normal maintenance.

Maintenance of a building or other structure containing or used by a nonconforming use will be permitted when it includes necessary, nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming building or use. Nothing in this article shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the county zoning administrator.

(Ord. No. 15, art. 21, § 8, 1-19-2010)

Sec. 42-652. - Nonconforming use, zone change.

If, in the event of a change of zoning district classification, any use is rendered nonconforming as a result of such change, sections 42-644 through 42-651, inclusive, shall apply.

(Ord. No. 15, art. 21, § 9, 1-19-2010)

Secs. 42-653—42-677. - Reserved.

ARTICLE X. - PLANNING AND ZONING COMMISSION AND ADMINISTRATOR

Sec. 42-678. - Enforcement.

(a) The provisions of this chapter shall be administered by the office of the planning and zoning administrator.

(b) When any work has been stopped by the zoning administrator, for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed.

(c) It shall be the duty of the county attorney and the county sheriff, when called upon by the county board of commissioners, to perform such duties as may be necessary to enforce the provisions of this chapter.

(Ord. No. 15, art. 22, § 1, 1-19-2010)

Sec. 42-679. - Duties and powers of the office of planning and zoning administrator.

The duties and powers of the office of planning and zoning administrator are to:

(1) Determine if applications comply with the terms of this article.

(2) Conduct inspections of structures and use of land to determine compliance with the terms of this chapter.

(3) Maintain permanent and current records of this chapter, including, but not limited to, maps, amendments, conditional uses, variances, appeals and applications.

(4) Receive, file and forward all applications for appeals, variances, conditional uses and amendments to the designated official bodies.

(5) Institute in the name of the county any appropriate actions or proceedings against a violator.

(6) Issue building permits and maintain records thereof. A record shall be maintained of finished first floor elevations (including basements) and floodproofing measures for all new structures in flood districts.

(7) Provide and maintain a public information bureau relative to matters arising out of this chapter.

(8) Act as building inspector and environmental officer for the county.

(Ord. No. 15, art. 22, § 2, 1-19-2010)

Sec. 42-680. - Permit required.

(a) On and after the effective date of the ordinance from which this chapter is derived, it shall be unlawful to proceed with the erection, enlarging, structural alteration, demolition or removal of any building, nor shall the same be used for a new purpose, or in the use of land other than agricultural purposes within unincorporated areas of the county, without first procuring a building permit. No permit shall be issued unless such building or land use is designed and arranged to conform to the provisions of this chapter. For permits issued within the "FP" Floodplain District, the applicant shall be required to submit certification by a registered land surveyor that the finished fill, building elevations and floodproofing measures were accomplished in accordance with the provisions of this chapter and all applicable state and federal regulations. Permits shall be required for the placement of fill or excavation of materials within the floodplain.

(b) Application for a permit shall be signed by the applicant or his authorized agent and filed with the planning and zoning administrator's office in duplicate.

(c) The application shall contain the following information: the location and dimensions of the lot or premises; the nature of the proposed construction alteration or repair; the estimated cost; and the present and proposed use of land or any structure on the premises. In addition to the above information, applications for permits within the floodplain shall show elevation of the lot; existing and proposed structures, fill or storage of material; and the location of all information in relation to the stream channel.

(d) To each application, there shall be annexed an inked or blueprint copy of the plan to be followed, accurately scaled, which plan shall also contain the lot dimensions and the location thereon of the proposed construction, alteration or repair or land use.

(e) Upon receipt of an application for a permit, the administrator shall examine the same to determine whether the proposed construction, alteration, repair, enlargement, demolition or removal and proposed use shall comply with the provisions of this chapter, all building and health ordinances or regulations of the county and state law, and, upon so determining affirmatively, he shall issue a permit to the applicant in the manner and form as approved by the county board. Such permit shall be affixed to a copy of the application and returned to the applicant and a copy of the permit shall be affixed to

the second copy of the application and retained permanently as a part of the records of the administrator.

(f) If it shall be determined that, for any reason, the permit requested may not be issued, the administrator shall return both copies of the application, with the fee deposited, to the applicant, with a memorandum stating the reason for refusing to issue said permit.

(Ord. No. 15, art. 22, § 3, 1-19-2010)

Sec. 42-681. - Planning commission.

(a) The county board of commissioners hereby establishes the county planning commission. The planning commission shall consist of not less than seven members appointed by the chairperson of the board of commissioners and ratified by the board.

(b) At least four members shall be residents of the portion of the county outside the corporate limits of the municipalities.

(c) The term of each member shall begin on January 1, and continue through December 31. Each member shall serve for a period of three years except the term of the officer or employee appointed by the board shall be annually.

(d) Each member may be eligible at the discretion of the county board for reappointment, but not more than three consecutive three-year terms.

(e) No more than one voting member of the planning commission shall serve as an officer or employee of the county.

(f) No voting member of the planning commission shall receive, during the two years prior to appointment, any substantial portion of his income from business operations involving the development of land within the county for the development of land for urban and urban-related purposes.

(g) The county board may designate any county officer or employee as an ex officio member of the commission.

(h) The commission may call for the removal of any member for nonperformance of duty or misconduct in office. If a member has four consecutive unexcused absences in any one year, the secretary shall certify this fact to the commission and the commission shall notify the county board along with suggested action. The county board shall appoint a replacement for the unexpired term, as if the member has resigned.

(i) Should any vacancy occur among the members of this planning commission by reason of death, resignation, disability or otherwise, immediate notice thereof shall be given to the chairperson of the county board by the secretary. Should any vacancy occur among the officers of the planning commission, the vacant office shall be filled in accordance with the provisions of this subsection, such officer to serve the unexpired term of the office in which such vacancy shall occur.

(j) The members of the commission may be compensated in an amount determined by the county board and may be paid their necessary expenses in attending meetings of the commission and in the conduct of the business of the commission.

(k) The planning commission shall elect a chairperson from among its members. The commission may select a secretary from its members or advisory members. The planning commission shall cooperate with the planning and zoning administrator and other employees of the county in preparing and recommending to the board for adoption, comprehensive plans and recommendations for plan execution in the form of official controls and other measures and amendments thereto. In all instances in which the planning commission is not the final authority, the commission shall review all applications for conditional use permits and plans for subdivisions of land and report thereon to the board.

(l) The board may by ordinance assign additional duties and responsibilities to the planning commission, including, but not restricted to, the conduct of public hearings, the authority to order the issuance of

some or all categories of conditional use permits, the authority to approve some or all categories of subdivisions of land, and the authority to approve some or all categories of planning unit developments. The planning commission may be required by the board to review any comprehensive plans 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 report thereon in writing to the board.

(Ord. No. 15, art. 22, § 4, 1-19-2010)

Sec. 42-682. - Petitions previously denied.

A period of not less than one year is required between presentation of petitions or requests for rezoning text amendments, conditional use permits or variances applying to a specific piece of property, where prior petition was denied.

(Ord. No. 15, art. 22, § 5, 1-19-2010)

Secs. 42-683—42-707. - Reserved.

ARTICLE XI. - BOARD OF ADJUSTMENT

Sec. 42-708. - Creation and membership.

(a) A board of adjustment is hereby established and vested with such authority as is hereinafter provided and as by M.S.A. §§ 394.21 through 394.37.

(b) The board of adjustment shall consist of five members. The members of the board of adjustment shall be appointed by the board of county commissioners. Each member shall serve for a period of three years and the terms of the five members shall be staggered so that no more than three terms expire in any year. Each member may be eligible at the discretion of the county board for reappointment, but not more than three consecutive three-year terms.

(c) The term of each member shall begin on January 1 and continue through December 31 of the last year of his term until his successor is appointed.

(d) At least one member of such board of adjustment shall be from the unincorporated area of the county and one member shall also be a member of the county planning commission. No elected official of the county, nor employee of the board of county commissioners shall serve as a member of the board of adjustment.

(e) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a board member from voting thereon shall be decided by a majority vote of all regular board members except the member who is being challenged.

(f) In the event a vacancy occurs as a result of death, incapacity, resignation or removal of any member of the board of adjustment, a new member shall be appointed as above provided, but only for the unexpired term of his predecessor.

(g) The board of adjustment may call for the removal of any member for nonperformance of duty or misconduct in office. If a member has four consecutive unexcused absences in any one year, the secretary shall certify this fact to the board of adjustment and the board of adjustment shall notify the county board along with suggested action. The county board shall appoint a replacement for the unexpired term, as if the member had resigned.

(h) The board of adjustment shall serve without compensation but all members of the board may be paid their necessary expenses in attending meetings of the board and in the conduct of the business of the board.

(i) The board of adjustment shall elect a chairperson and a vice-chairperson from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its proceedings, findings and determinations. The zoning administrator shall act as secretary of the board.

(j) The meetings of the board of adjustment shall be held at the call of its chairperson and at such other times as the board in its rules of procedures may specify.

(Ord. No. 15, art. 24, § 1, 1-19-2010)

Sec. 42-709. - Powers.

(a) The board of adjustment shall have the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of M.S.A. §§ 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future use on an official map and perform such other duties as required by the official controls. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state.

(b) An appeal from any order, requirement, decisions or determination of any administrative official shall be taken within 30 days after receipt of notice of the decision by the board of adjustment by filing with the board of adjustment a notice of appeal specifying the grounds thereof. The board of adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and to the public and decide the same within 60 days after the date of filing the appeal. An appeal stays all proceedings in furtherance of the action appealed from unless the board of adjustment to whom the appeal is taken certifies that by reason of the fact stated in the certificate a stay would cause imminent peril 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, to that end, shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. The reasons for the board's decision shall be stated in writing. The notice of appeal shall state:

    (1) The particular order, requirement, decision or determination from which the appeal is taken.

    (2) The name and address of the appellant.

    (3) The grounds for the appeal.

    (4) The relief requested by the appellant.

    (5) All necessary state and federal permits.

    (6) The variance request and a statement outlining the unique or particular situation or peculiar hardship involved in creating the need for a variance.

(c) The board of adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control, including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties in the way of carrying out the strict letter of any official control and when the terms of the variance are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. The term "practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board of adjustment may impose conditions in the granting of

variances to ensure compliance and to protect adjacent properties and the public interest. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(Ord. No. 15, art. 24, § 2, 1-19-2010; Res. No. 11-201, 9-6-2011)

Sec. 42-710. - Procedure.

(a) An application for a variance shall be filed with the zoning administrator; the application shall be accompanied by development plans showing such information as the zoning administrator may reasonably require for purposes of this article. The plans need not meet engineering or construction details so long as they contain sufficient information for the board of adjustment to determine whether the proposed variance will meet all applicable development standards if the variance is granted. In all cases, the application shall include:

    (1) Name and address of the applicant.

    (2) The legal description of the property involved in the request for the variance.

    (3) The names and addresses of owners of the property or any persons having a legal interest therein.

    (4) A site plan showing all pertinent dimensions, buildings and significant natural features having an influence on the variance.

    (5) All necessary state and federal permits.

    (6) The variance request and a statement outlining the unique or particular situation or peculiar hardship involved in creating the need for a variance.

(b) The board of adjustment shall hold at least one public hearing on any application for a variance or appeal. Notice of the purpose, time and place of such public hearing shall be published in a newspaper of general circulation in the town, municipality or other areas concerned and in the official newspaper of the county at least ten days prior to the date of the hearing. Written notice of such public hearing shall be mailed to all property owners of record within 500 feet of the affected property, the affected board of town supervisors, and the municipal council of any municipality within two miles of the affected property.

(c) All decisions by the board of adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision or determination shall be final, except that any aggrieved person, or any department, board of commission of the jurisdiction or of the state shall have the right to appeal within 30 days after receipt of notice of the decision to the district court in the county in which the land is located on questions of law and fact.

(d) No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six months from the date of said order of denial, except on the ground of new evidence or proof of change on conditions found to be valid.

(e) A violation of any condition set forth in granting a variance shall be in violation of this article and automatically terminates the variance.

(Ord. No. 15, art. 24, § 3, 1-19-2010)

Sec. 42-711. - Findings.

(a) In exercising its authority to review any order, requirement, decision or determination made by any administrative official, the board shall not grant any appeal or variance unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the board of adjustment may require:

(1) That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.

(2) That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant, and that the granting of the variance will not alter the essential character of the locality.

(b) In the case of variances, they shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties in the way of carrying out the strict letter of any official control.

(Ord. No. 15, art. 24, § 4, 1-19-2010; Res. No. 11-201, 9-6-2011)

Sec. 42-712. - Variances within shoreland and floodplain.

(a) *Variance applications.* An application for a variance to the provisions of this chapter will be processed and reviewed in accordance with applicable state statutes and this article.

(b) *Adherence to state floodplain management standards.* A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(c) *Additional variance criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(1) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances may only be issued by a community upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) *Flood insurance notice.*

(1) The zoning administrator must notify the applicant for a variance that:

a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

b. Such construction below the base or regional flood level increases risks to life and property.

(2) Such notification must be maintained with a record of all variance actions.

(e) *General considerations.* The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

(1) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

(2) The danger that materials may be swept onto other lands or downstream to the injury of others;

(3) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

(4) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

(5) The importance of the services to be provided by the proposed use to the community;

(6) The requirements of the facility for a waterfront location;

(7) The availability of viable alternative locations for the proposed use that are not subject to flooding;

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(9) The relationship of the proposed use to the comprehensive land use plan and floodplain management program for the area;

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

(f) *Submittal of hearing notices to the department of natural resources (DNR).* The zoning administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(g) *Submittal of final decisions to the DNR.* A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(h) *Recordkeeping.* The zoning administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(Ord. No. 15, art. 24, § 5, 1-19-2010; Res. No. 11-201, 9-6-2011; Ord. No. 15.106, 10-7-2014)

Sec. 42-713. - Recording.

(a) A certified copy of any order issued by the board of adjustment acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance shall be filed with the county recorder for record. The order issued by the board of adjustment shall include the legal description of the property involved. The zoning administrator shall be required to meet the requirements of this subsection.

(b) The zoning administrator shall provide to the applicant a copy of the order issued by the board of adjustment stating that it has been filed with the county recorder's office.

(Ord. No. 15, art. 24, § 6, 1-19-2010)

Secs. 42-714—42-739. - Reserved.

ARTICLE XII. - AMENDMENTS/REZONINGS

Sec. 42-740. - Authority.

Whenever the public necessity, convenience, general welfare or good land use require such amendment, the county board may, by ordinance, amend, extend or add to the regulations of this chapter in accordance with the applicable provisions of M.S.A. §§ 394.21 through 394.37.

(Ord. No. 15, art. 25, § 1, 1-19-2010)

Sec. 42-741. - Application.

(a) An application for amendment, extension or addition to the regulations of this chapter shall be filed with the zoning administrator by one of the following:

    (1) A petition from a resident living within the jurisdiction of this chapter.

    (2) A recommendation of the planning commission.

    (3) Action by the county board.

(b) Said application shall be filed at least 20 days prior to the hearing thereof.

(c) An application for an amendment not initiated by the planning commission shall be referred to the planning commission for study and report and may not be acted upon by the board until it has received the recommendations of the planning commission.

(d) Required information accompanying application to change the wording of this chapter shall contain the following:

    (1) Stated reason for change requested.

    (2) Statement on compatibility to the county land use policy plan.

    (3) Text of portion of the existing ordinance to be amended.

    (4) Proposed amended text and statements outlining any other effects that the amendment may have on other areas of this chapter.

    (5) Additional information as may be requested by the planning commission.

(e) Required information accompanying applications to change district boundaries shall contain the following:

    (1) The names and addresses of the petitioners and their signatures to the petition.

    (2) A specific description of the area proposed to be rezoned and the names and addresses of all owners of property lying within such area, and a description of the property owned by each.

    (3) The present district classification of the area and the proposed district classification.

    (4) Proposed use of the land (a statement of the type, extent, area, etc.).

    (5) Map and plot plan or survey.

    (6) Compatibility with the land use policies and plans of the county (a statement of conditions warranting change in zoning).

    (7) A legal description of the properties to be rezoned.

    (8) Map, plot plan, or survey plot of property to be rezoned (showing location, dimensions, zoning of the adjacent properties, existing uses and buildings of adjacent properties within 500 feet in incorporated areas, and one-half mile in unincorporated areas drawn to scale).

    (9) Additional information as may be requested by the planning commission.

(Ord. No. 15, art. 25, § 2, 1-19-2010)

Sec. 42-742. - Procedure.

(a) Upon receipt of the proper application and other requested material for amendment or rezoning, the planning commission shall hold a public hearing in a location to be prescribed. Such public hearings may be continued from time to time and additional hearings may be held.

(b) Notice of the time, place and purpose of any public hearings shall be given by publication in a newspaper of general circulation in the town, municipality or other area concerned and in the official newspaper of the county, at least ten days before the hearing.

(c) For district boundary changes or zoning use changes, subsections (a) and (b) of this section shall apply, plus written notice of public hearings shall be sent by letter to all property owners of record within 500 feet of the affected property in incorporated areas, and one-half mile in unincorporated areas, the affected board of town supervisors and the municipal council of any municipality within two miles of the affected property.

(d) The failure to give mailed notice to the individual owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subsection has been made.

(e) In areas where joint planning review processes are authorized, the planning commission may refer the proposed amendment request for review, comments, and recommendations prior to the public hearing.

(Ord. No. 15, art. 25, § 3, 1-19-2010)

Sec. 42-743. - Action and authorization.

(a) Following the closing of the public hearing, the planning commission shall request a representative of the planning and zoning officer to report its findings and recommendations on the proposed amendment or rezoning to the county board at their next regularly scheduled board meeting.

(b) Upon the filing of such report or recommendation, the county board may hold such public hearings upon the amendment if it deems advisable. After the conclusion of the hearings, if any, the county board may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if a majority of all members of the board concur in its passage.

(Ord. No. 15, art. 25, § 4, 1-19-2010)

Sec. 42-744. - Fees.

(a) All applications for a zoning district boundary change or amendment to this chapter shall be accompanied by a fee set by resolution of the county board.

(b) Additional fees may be charged to the applicant for actual coats incurred by the county for legal, engineering and planning consultant assistance necessary for proper review and consultation to assist the planning commission and county board in its decision making.

(Ord. No. 15, art. 25, § 5, 1-19-2010)

Sec. 42-745. - Recording.

Upon the adoption of any ordinance or other official control, including any maps and charts supplemented to or as a part thereof, the county auditor shall file a certified copy thereof with the county recorder for record. Ordinances, resolutions, maps or regulations filed with the county recorder pursuant to this chapter do not constitute encumbrances on real property.

(Ord. No. 15, art. 25, § 6, 1-19-2010)

Secs. 42-746—42-773. - Reserved.

ARTICLE XIII. - VIOLATIONS AND PENALTIES

Sec. 42-774. - Violations.

(a) It shall be the duty of all architects, contractors, subcontractors, builders and other persons having charge of the erecting, altering, changing or remodeling of any building or structure, including manufactured homes, before beginning or undertaking any such work, to see that a proper permit has been granted and that such work does not conflict with and is not a violation of the terms of this chapter; and any such architect, builder, contractor or other person doing or performing any such work of erecting, repairing, altering, changing or remodeling without such permit having been issued or in violation of, or in conflict with, the terms of this chapter shall be deemed guilty of a violation hereof in the same manner and to the same extent as the owner of the premises or the person for whom such buildings are erected, repaired, altered, changed or remodeled in violation hereof and shall be held accountable for such violation.

(b) Any building or structure, including manufactured homes, erected or being erected, constructed or reconstructed, altered, repaired, converted or maintained, or any building or structure, including manufactured homes, or land used in violation of this chapter or other regulations made under the authority of the county is hereby declared to be a nuisance per se and the county, through its qualified officers as provided by statute for maintaining suits, may institute proceedings in the court for the purposes of restraining any violation of any of the provisions of this chapter.

(Ord. No. 15, art. 26, § 1, 1-19-2010)

Sec. 42-775. - Civil relief.

The county may, if it deems appropriate, choose to take a civil action to correct a violation. The county may recover any and all costs, loss, damage, liability or expense incurred, including reasonable attorneys fees incurred for enforcement of this chapter through a civil action based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings brought, or any loss, damage or injury of any type whatsoever sustained, based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings. The corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the board, the costs (including legal and attorney's fees) may be certified to the county auditor as a special assessment against the real property.

(Ord. No. 15, art. 26, § 3, 1-19-2010)

Sec. 42-776. - Relief from personal responsibility.

The planning and zoning administrator shall not be personally liable while acting for the county and he is hereby relieved from all personal liability from any damages that may accrue to persons or property as a result of any act required or permitted in the discharge of his official duties.

(Ord. No. 15, art. 26, § 4, 1-19-2010)

CODE COMPARATIVE TABLE - LEGISLATION

This table gives the location within this Code of those ordinances which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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