

County Ordinance No. 5

~~As Amended November 4, 1975~~ Amendment No. 2

AN ORDINANCE FOR THE REGULATION OF APPROACHES AND UTILITY INSTALLATIONS
ON RIGHT-OF-WAY OF COUNTY ROADS

Of Hubbard County, Minnesota

1. 1.0. General Provisions

- 1.1 **Policy** The Board of Commissioners of Hubbard County recognizes the need for regulation of entrances from adjoining lands to the traveled way of the County State Aid Highways and the County Road Systems under their supervision in order to promote the public safety, the esthetic values and engineering integrity of said road systems.

The intent of this ordinance is to permit a reasonable access to the road from abutting lands as is compatible with the principals as set forth in the following:

- 1.2 Statutory Authorization Pursuant to Minnesota Statutes Chapter ~~500~~160, Sec. 160.08 Subd. 3, Sec. 160.18 Subd. 1, 2, 3, and Sec. 160.27 Subd. 1 through 13, ~~and as amended by H.F. No. 130, Chap. No. 24. The Board of Commissioners of Hubbard County do hereby ordain the following:~~

2.02. Regulations

- 2.1 No approach or entrance shall be constructed unless the owner of the land served by same shall have in his possession a valid permit signed by the County Highway Engineer of Hubbard County. The person constructing such entrance, if different from the landowner, shall have in his possession a copy of said permit during said construction. The issuance of this permit is to be conditioned on such items as public safety, drainage, sight distances, esthetics in addition to considerations of convenience and necessity to the landowner. ~~If it is determined by the County Engineer, or his representative, that a culvert is necessary for proper drainage, a \$50.00 cash, check or money order payable to the Hubbard County Treasurer shall be deposited with the County Engineer. If it is determined by the County Engineer, or his representative, that a culvert is not needed, a \$25.00 cash, check or money order payable to the Hubbard County Treasurer shall be deposited with the County Engineer. No deposits will be returned to the applicants. Culverts will be furnished by the County and remain the property of the County. The Engineer shall be the sole judge in the above determinations.~~
- 2.2 ~~Applications for permit to construct an entrance shall be made on forms prescribed by the County. Such application shall be made at least 7 days before the construction of same. A non-refundable entrance application fee as determined by the Hubbard County Board of Commissioners paid by cash, check or money order payable to the HUBBARD COUNTY TREASURER OR HUBBARD COUNTY HIGHWAY DEPARTMENT will be required by the County Engineer prior to inspection of driveway entrance. This fee will cover the cost of inspection and a culvert for drainage if necessary. If a larger than standard size entrance is requested by the applicant and approved, the costs of the additional culvert required will be paid for by the applicant prior to delivery. Culverts will be furnished by the County and remain the property of the County.~~
- 2.3 ~~Each entrance shall substantially comply with the specifications of the County Highway Department. The applicant shall build the entrance at his own expense. Installation of the culvert is the applicant's responsibility and shall substantially comply with the specifications of the County Highway Department. During the course of a general road building or rebuilding either by contract or county forces, necessary entrances will be built at County expense.~~
- 2.4 ~~A temporary permit will be granted conditioned upon the receipt of \$50.00 cash or check made payable to Hubbard County Treasurer. Temporary entrances must meet these same requirements as above, and money will be returned after satisfactory removal of the entrance at the time set forth in the permit. Should said entrance remain after the time in the permit has expired, the County will remove the entrance, in which case the \$50.00 shall be~~

~~forfeited. Please obtain a location marking stake from Hubbard County Highway Department or Environmental Services Office upon submittal of application and install in the center of the proposed driveway location site. Upon receipt of an entrance application, the Engineer or his/her representative will inspect the site for location approval and culvert requirement at his/her earliest convenience. The Engineer or his/her representative shall be the sole judge in the above determination. Applicant will be notified of the Engineer's decision; if approved, the entrance permit will be issued. If a culvert is required it will be delivered on date specified by applicant with a 72 hour advance notice.~~

- 2.5 ~~Entrances that have been in place 90 days or more prior to re-grading by Contract or County Forces will be replaced at no expense to the abutting land owner or renter. The Board of County Commissioners may require the Public Utilities, or its contractor, to furnish a deposit in the form of a certified check, a surety bond or corporate undertaking, in favor of the Board of County Commissioners of Hubbard County, for any expense incurred by the County in the repairing of damage to any portion of the county highway right of way caused by work performed under a Permit, including any out of the ordinary engineering supervision and inspection expense provided by the county. In those instances wherein a deposit is required, the amount of the deposit shall be specified in the Special Provision s of the Permit. If a check is furnished, any monies remaining over and above such expense shall be returned to the applicant.~~
- 2.6 ~~It shall be the general policy to allow one entrance to each household or business location and one entrance to each 40-acre tract of rural land. If an applicant can demonstrate that additional entrances would be necessary to avoid undue hardship or expense and the entrance location meets aforementioned requirements, entrance will be permitted providing applicant bears entire cost. Any person not complying with this ordinance shall be guilty of a misdemeanor and subject to a fine for violation of any provision of this ordinance.~~
- 2.7 ~~Public Utilities desiring to install or maintain facilities which require digging, impeding traffic, or other major activity on the road right of way, and which operation shall exceed \$1,000 in value, shall obtain a permit and post a \$500 bond conditioned on the satisfactory restoration of the right of way and/or roadway to its original condition. Such bond, by agreement, may be made continuous in coverage, subject to depletion by non-compliance of the applicant. If value of said installation or maintenance is less than \$1,000 a permit only shall be required.~~
- 2.8 ~~Any person not complying with this ordinance shall be guilty of a misdemeanor and subject up to a \$300 fine for each violation of any provisions of this ordinance.~~

3.03. Date of Effect

- 3.1 ~~This ordinance shall be in full force and effect from and after its passage and approval, as provided by law become effective upon its adoption and publication according to law.~~

Adopted this 17th day of July, 2002 by the Board of Commissioners, Hubbard County, Minnesota.

Dated:

Chairman of the Board

ATTEST:

County Coordinator

HUBBARD COUNTY ORDINANCE NUMBERED EIGHT

AN ORDINANCE PROHIBITING UNREASONABLE ACCELERATION OF MOTOR VEHICLES IN THE COUNTY OF HUBBARD AND PROVIDING PENALTIES THEREFOR

The Board of Commissioners of the County of Hubbard does ordain as follows:

SECTION 1. Unreasonable acceleration of any motor vehicle on any public or private road or way within the County of Hubbard, as unreasonable acceleration is herein define, is hereby declared to be a public nuisance and is prohibited.

SECTION 2. Unreasonable acceleration of a motor vehicle is hereby defined as acceleration without apparent reason, and accomplished in such manner as to cause squealing or screeching sounds by the tires or the throwing of sand or gravel by the tires of said vehicle or both.

Prima facie evidence of such unnecessary and unreasonable acceleration shall be squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires of said vehicle or both.

SECTION 3. Penalty. Any person violating any provision of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed \$300.00 or by imprisonment in the County Jail for a period of not to exceed 90 days, or both.

SECTION 4. Effective date. This ordinance shall become effective upon its passage and publication, as provided by law.

Adopted and passed by the Hubbard County Board of Commissioners this 5th day of November, 1974.

**State of Minnesota
County of Hubbard**

Ordinance No. 10

Amendment #4

An ordinance regulating the surface use of the waters of LaSalle Lake (29-309), and Lester Lake (29-49) and imposing penalties for violations thereof.

Be it ordained and enacted by the County Board of Commissioners of the County of Hubbard, State of Minnesota, that these amendments following, by this act, hereby replace and nullify those like numbered clauses now existing and a part of County Ordinance No. 10, or are newly enacted sections which, upon their enactment, become a part of County Ordinance No. 10.

Section 1 Purpose, Intent, and Application:

As authorized by Minnesota Statutes 86B.201, 86B.205, and 459.20, AND Minnesota Rules 6110.3000-6110.3800 as now in effect and as hereafter amended, this Ordinance is enacted for the purpose and with the intent to control and regulate the use of the waters of LaSalle Lake (29-309), and Lester Lake (29-49) in Hubbard County, Minnesota, said bodies of water being located entirely within the boundaries of Hubbard County, to promote its fullest use and enjoyment by the public in general and the citizens of Hubbard County in particular, to insure safety for persons and property in connection with the use of said waters; to harmonize and integrate the varying uses of said waters; and to promote the general health, safety, and welfare of the citizens of Hubbard County, Minnesota.

Section 2 Definitions:

Terms used in this ordinance related to boating are defined in M.S. 86B.005.

Section 3 Surface zoning of LaSalle Lake and Lester Lake by restricting speeds:

LaSalle Lake:

(a) During all 24 hours of the day, on each and every day of the week, no watercraft shall be operated in excess of ten (10) miles per hour.

Lester Lake:

(a) During all 24 hours of the day, on each and every day of the week, watercraft shall be operated with electric motors only, or no motor.

Section 4 Enforcement:

The primary responsibility for enforcement of this Ordinance shall rest with the Hubbard County Sheriff's Department. This; however, shall not preclude enforcement by other licensed peace officers.

Section 5 Exemptions:

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

Section 6 Notification:

It shall be the responsibility of the Minnesota Department of Natural Resources to provide for adequate notification of the public, which shall include placement of a sign at each public watercraft access outlining essential elements of the ordinance.

Section 7 Penalties:

Any person who shall violate any of the provisions of this ordinance shall be guilty of misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1000.00) or by imprisonment of not more than ninety (90) days, or both.

Section 8 Amendment of Hubbard County Ordinance No. 10:

Hubbard County Ordinance No. 10 as adopted August 1, 1978 and amended May 20, 1981, September 16, 1981, and January 7, 2014 is hereby amended and replaced by this Ordinance.

Section 9 Effective Date:

This Ordinance shall be in full force and effect from March 28, 2018, after its passage and publication according to law.

Approved and adopted this 6th day of March, 2018.



Calvin Johannsen, Chairperson
Hubbard County Board of Commissioners

Attest:



Debbie Thompson, County Coordinator

Published in the Northwoods Press, this 28th day of March, 2018.

COUNTY ORDINANCE NUMBER TWELVE
PUBLIC ACCESS ORDINANCE
HUBBARD COUNTY, MINNESOTA

AN ORDINANCE REGULATING THE USE OF COUNTY OWNED AND OPERATED ACCESS AREAS TO PUBLIC WATERS; PROVIDED REGULATIONS, AND PRESCRIBING PENALTIES FOR VIOLATIONS.

NOW BE IT ORDAINED AND ENACTED by the Board of County Commissioners of the County of Hubbard, State of Minnesota:

SECTION 101. No vehicle shall be parked in other than designated parking space nor in such a manner as to obstruct any avenue of ingress or egress to the area, except for the purpose of loading and unloading boats or other equipment.

SECTION 102. No person shall molest, harass, pursue, capture or kill any wildlife species within the County owned or operated area.

SECTION 103. Carrying or transporting loaded firearms within the area or using any firearm, bow and arrow, air rifle, slingshot or other missile propelling weapon therein shall not be permitted within the County owned or operated area.

SECTION 104. No person shall permit livestock in any public access area.

SECTION 105. No person shall remove, destroy or damage any tree, shrub, vine or plant or any part thereof.

SECTION 106. Building fires in other than designated fireplaces or throwing lighted cigarettes, cigars or other burning materials on the ground shall not be permitted

SECTION 107. Debris and refuse in the nature of tin cans, bottles, boxes, cartons, paper, food, garbage, and other foreign materials shall not be left within the area, unless containers are provided, nor shall they be dumped in the vicinity thereof to deface the lands and to pollute the waters.

SECTION 108. No person shall destroy or deface signs, posts, fences, bird-houses, tables, benches or other County property.

SECTION 109. No person shall camp on or remain on any public access past 10:00 o'clock P.M.

SECTION 110. No person shall leave, store, abandon, or otherwise cause to remain on any County access site, any fish house, shelter, dark house, pier or dock.

SECTION 111. No person shall leave, store or moor on or directly in front of any County public access any boat, pontoon or watercraft, after such person has left the lake area, or cause such watercraft to remain on the county access site overnight.

SECTION 112. While within any County owned or operated access area, no persons shall consume beer, wine or other intoxicating liquor.

SECTION 113. While within any County owned or operated access area, no persons shall possess or use controlled substances except in accordance with State Law.

SECTION 114. All persons violating any of the above rules or regulations shall be guilty of a misdemeanor.

SECTION 115. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Adopted and passed by the Hubbard County Board of Commissioners this 12th day of July 1982.

Hubbard County

**Shoreland Management
Ordinance No. 17**

Amendment 20

August 17, 2021

Hubbard County Shoreland Management Ordinance

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General Provisions and Definitions

Section 101. Statutory Authorization

Pursuant to the authority conferred by the State of Minnesota in Minnesota Statutes, Chapter 103, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394 and for the purpose of; preserving and enhancing the quality of surface waters, preserving the economic and natural environmental values of shorelands, and providing for the wise utilization of waters and related land resources.

Section 102. Policy

The uncontrolled use of shorelands of Hubbard County, Minnesota adversely affects the public health, safety and general welfare by contributing to pollution of public waters and by impairing the local tax base. It is, therefore, 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 Minnesota State Legislature has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters in order to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and to provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Hubbard County, and will be accomplished through the enforcement of this Ordinance, which shall be known and cited as the Hubbard County Shoreland Management Ordinance.

Section 103. Statement of Purpose

The purpose of the Hubbard County Shoreland Management Ordinance is to achieve the aforementioned policies and to:

- Designate suitable management districts for each public water;
- Regulate the placement of sanitary and waste treatment facilities on lots;
- Regulate the area of lot and the length of water frontage suitable for a building site;
- Regulate alteration of the shorelands of public waters;
- Regulate alterations of the natural vegetation and the natural topography; and
- Regulate the subdivision of land in unincorporated areas.
- Implement the above-mentioned items in accordance with the Hubbard County Land Use Plan.

The County Commissioners of Hubbard County, Minnesota do ordain as follows:

Section 104. Jurisdiction

The provision of this Ordinance shall apply to the shorelands of the public water bodies in the unincorporated areas of Hubbard County unless requested by those incorporated bodies, as classified in Article II of this Ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than twenty-five (25) acres in size will be regulated by county shoreland management regulations. A body of water created by a private user where there was no previous shoreland is exempt from this Ordinance.

Section 105. 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 Ordinance and other applicable regulations.

Section 106. Enforcement

The Hubbard County Board of Commissioners shall bear ultimate responsibility for the administration and enforcement of this Ordinance. Any violation of the provisions of this Ordinance or failure to comply with any of its requirements, including failure to comply with special conditions attached to granted interim and conditional uses or variances, shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Article XI of this Ordinance.

Section 107. Interpretation

In their interpretation and application the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Hubbard County and shall not be deemed a limitation or repeal of any other powers granted by State Statutes. Interpretation shall be made by the Environmental Services Director with approval of the Board of County Commissioners, subject to appeal to the Board of Adjustment.

If two or more provisions apply to a situation or item, the more restrictive provision shall control. When a structure or property use crosses a shoreland management district boundary or said districts overlap, the most restrictive provisions shall apply.

Section 108. Severability

This Ordinance and the various parts, sentences, paragraphs, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is judged to be unconstitutional or otherwise invalid for any reason by a court of competent jurisdiction, such finding shall not affect the remaining portions of this Ordinance.

Section 109. Abrogation and Greater Restrictions

Notwithstanding the provisions of Minnesota Statutes Section 396.05, this Ordinance shall not require approval or be subject to disapproval by any Town or Town Board. However, this Section does not prohibit a Town from adopting or continuing in force, regulations which are more restrictive than those required by this Ordinance. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

Section 110. Effective Date

This Ordinance shall take effect and be in force from August 17, 2021 and after the date of passage, approval, and publication, as provided by law.

Section 111. Definitions as Used in this Ordinance

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Ordinance its most reasonable application. For the purpose of this Ordinance, the words "must" and "shall" are mandatory; the word "may" is permissive. All distances, unless otherwise specified, shall be measured horizontally. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number as well.

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

Accessory use. A use subordinate to and serving the principal use on the same lot, which is compatible with and customarily incidental to the principal use.

Agriculture. The use of land for agricultural purposes including: farming; dairying; pasturage; horticulture; floriculture; viticulture; animal and poultry husbandry and the necessary accessory uses for packing, treating and storing the produce, provided that the operation of any such accessory uses such as u-pick operations shall be secondary to that of the principal agricultural activities. The term shall include incidental retail selling by the producer of products grown or raised on the land.

Agricultural structure. Any structure existing or erected and used principally for agricultural purposes, with the exception of dwelling units.

Antenna. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, microwave signals, including, but not limited to directional antennas such as panels, microwave dishes, satellite dishes, and omni-directional antennas such as whip antennas.

Basement. Is that portion of a structure that is partially or completely below grade and the floor to ceiling height is 7.0 feet or more.

Bed and Breakfast Home. An establishment in a residential dwelling that supplies temporary accommodations and a morning meal to overnight guests for a fee where an owner or manager resides on the premises.

Bluff. A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

- (1) Part or all of the feature is located within a shoreland area;
- (2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (3) 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;
- (4) The slope drains toward the waterbody.

An area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff.

Bluff Impact Zone. A bluff and land located within 30 feet from the top of a bluff.

Board of Adjustment. The Hubbard County Board of Adjustment as appointed by the Hubbard County Board of Commissioners.

Board of County Commissioners. The Hubbard County Board of Commissioners.

Boardwalk. A permanent elevated structure used to provide access to a lake or river where a wetland is present and no other access point is available.

Boathouse. A structure designed and used solely for the storage of boats or boating equipment.

Buildable area. The area of a lot which is sufficient to accommodate the construction of water supply systems, sewage treatment systems, structures, driveways, and other customary improvements to a lot, while still providing for adequate setbacks. Buildable area shall not include land below the ordinary high water level of a waterbody, wetlands, bluffs, easements, minimum yard setbacks, buildable portions of land that are non-contiguous to each other, or when the County Board otherwise determines that an area is unsuitable for proposed or likely improvements. Buildable areas must include sufficient area for two (2) standard sewer systems. An area shall not be considered in the calculations of buildable area if it is not at least fifty (50) feet in width and length.

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

Campground. An open-air recreation area where temporary shelters such as tents and travel trailers are intended to provide short-term occupancy.

Church. A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses where persons regularly assemble for religious worship and are maintained and controlled by a religious body organized to sustain public worship.

Clear cutting. The removal of an entire stand of vegetation.

Club or Lodge. An association of persons who are bona fide members paying annual dues with use of premises being restricted to members and their guests.

Clustered. A development pattern and technique whereby structures or building sites are arranged in close proximity to one another in non-linear groups, adjacent to permanently preserved common open space so as to make the most efficient and visually aesthetic use of the natural features of the landscape and maximize visualization of the permanently preserved open space.

Commercial use. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods or services.

Commissioner. The Commissioner of the Department of Natural Resources.

Conditional Use. A use as this term is defined in Minnesota Statutes, chapter 394. (Note: To provide an idea of what this definition is, the "conditional use" definition in MS 394.22 Subd. 7 on October 28, 2014 was: "Conditional use" means a land use or development as defined by

official controls upon a finding that [1] certain conditions as detailed in the zoning ordinance exist, and [2] the use or development conforms to the comprehensive land use plan of the county and [3] is compatible with the existing neighborhood.)

Controlled access or recreational lot. A riparian lot which is intended to be used as a private access to public waters for non-riparian or riparian lots and/or dwelling units in any existing or proposed subdivision, outlot development or planned unit development and/or a riparian lot being used by way of private agreement by any other lot, party, or entity for access to public waters through the riparian lot.

County. The County of Hubbard, Minnesota.

Crawl space. A part of a structure, that is an enclosed space below the structure's lowest story, accessible by crawling, having a clearance less than human height, that is meant to provide access to the structure for maintenance or repair, and not intended for human habitation, provided that the space beneath a mobile home or recreational vehicle, whether enclosed or not, shall not be considered a crawl space for purpose of this ordinance.

Cul-de-sac. A street having one end open to traffic and being terminated by a vehicle turn-around.

Deck. A horizontal unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending more than one (1) foot above pre-existing or natural grade.

Department. Hubbard County Environmental Services.

Dinner Club. A restaurant or nightclub serving food – primarily evening meal dinners - and usually providing entertainment.

Drive-In Business. Any portion of a building or structure from which business is transacted or is capable of being transacted directly with customers while occupying, or facilitated by, drive through or drive-up in a motor vehicle.

Duplex, triplex, and quad. Dwelling structure on a single lot having two, three and four units respectively, being attached by common walls and each unit having separate sleeping, cooking, eating, living and sanitation facilities.

Dwelling, single family. A residential dwelling structure that is the sole principle structure on a lot, which has common cooking, eating and living facilities which is operated as a single housekeeping unit as distinguished from a boarding house, club house, fraternity house or hotel.

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

Dwelling unit. Any structure, or portion of a structure, or other shelter, designed as short or long term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel and resort rooms and cabins.

Earth tone. Soft, neutral or weathered colors typically associated with forest vegetation, soil,

bark or rock; principally blacks, browns, greens, and grays.

Easement. A grant by a property owner for specified use of land by a corporation, the public or specified persons.

Environmental Services Director. The Environmental Services Director of Hubbard County or the Hubbard County Board's authorized agent or representative.

Event Center: A for-profit facility consisting of multipurpose meeting and recreational facilities typically consisting of one or more meeting or multipurpose rooms, kitchen, and/or outdoor cooking facilities and/or outdoor meeting/recreational space, that are available for use by various groups for such activities as meetings, parties, weddings, receptions, and dances.

Expansion, enlargement, or intensification. Any increase in a dimension, size, area, volume, or height; any increase in the area of use; any placement of a structure or part thereof where none existed before; any addition of a site feature such as a deck, platform, fence, driveway, parking area, or swimming pool; any improvement that would allow the land to be more intensely developed; any move of operations to a new location on the property; or any increase in intensity of use based on a review of the original nature, function or purpose of the nonconforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the County.

Extractive use. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals and peat not regulated under Minnesota Statutes, sections 93.44 through 93.51.

Family. An individual or group of two or more persons related by blood, marriage or adoption, together with not more than three additional persons not related by blood, marriage or adoption, living together as a single housekeeping unit.

Feedlot. A lot or building or group of lots or buildings intended for the confined feeding, breeding, raising or holding of animals. This definition includes areas specifically designed for confinement in which manure may accumulate or any area where the concentration of animals is such that a vegetative cover cannot be maintained.

Fence. Any partition, structure, wall, or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the property boundaries.

Fill. Soil, sand, gravel, rock or any similar material that is deposited, placed, pushed or transported.

Flood-resistant. Flood-resistant material includes any building product capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Prolonged contact is defined as at least 72 hours. Significant damage is any damage requiring more than low-cost cosmetic repair (such as painting). All structural and non-structural building materials at or below the three-foot vertical separation elevation required by Section 507.1 of this Ordinance must be flood-resistant.

Forest land conversion. The clear cutting of forested lands to prepare for a new land use other

than reestablishment of a subsequent forest stand.

Garage. A fully enclosed building designed or used primarily for the storage of motor vehicles not including buildings in which fuel is sold or in which repair or other services are performed.

Geothermal energy system. A system that uses a heat pump to extract heat from the earth in heating mode and/or reject heat into the earth in cooling mode. It is also called a geothermal heat pump system, a ground-coupled heat pump system, an earth-source heat pump system, and a GeoExchange system.

Group home. A residential facility licensed by the State of Minnesota or Hubbard County Social Services Department which serves from seven to sixteen mentally handicapped, physically handicapped, or socially maladjusted individuals.

Guest cottage. A structure used wholly or partly as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Height of structure. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lowest, and the highest point of the structure. The height of the structure does not include any antenna, vent, chimney, satellite receiver or other similar non-structural items in nature.

Home extended business. An occupation or profession engaged in by the occupant of a dwelling unit within said unit or accessory structure on the premises which involves the storage of a limited amount of vehicles and equipment; repair; service or assembly requiring equipment other than customarily found in a home; or the storage of stock in trade incidental to the performance of a service. A home extended business shall be clearly incidental and secondary to the residential use of the premises. Merchandise sales are limited to the sale of merchandise clearly incidental to the home extended business. A home extended business shall be carried out by the inhabitants of the dwelling, with the assistance of no more than two non-resident employees on the premises at any given time.

Home occupation. Any occupation or profession engaged in by the occupant of a dwelling when carried out in within the dwelling unit and not in any accessory structure, which is clearly secondary to the principal use, and which shows no activity other than activity normally present on a residential site. A home occupation shall be carried out by the inhabitants of the dwelling, with the assistance of no more than two non-resident employees on the premises at any given time.

Hotel or motel. A building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week. - OR - A building or group of buildings used primarily for the temporary residence of motorists or travelers.

Household. An individual or group of two or more persons related by blood, marriage or adoption, together with not more than three additional persons not related by blood, marriage or adoption, living together as a single housekeeping unit.

Ice ridge. A shoreline physical land feature caused by the pushing action of a lake's ice sheet against the shore. The ice sheet scrapes, gouges, and pushes soil and rock into mounds called

“ice ridges”.

Impervious surface. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include, but are not limited to: rooftops, sidewalks, decks, platforms, storage areas, paver rock/stones, and concrete, asphalt, or packed gravel surfaces.

Improved lot. A lot that contains a single-family dwelling ready for immediate use as determined by Hubbard County, which is served by a subsurface sewage treatment system or public sewer and water supply that provides running indoor water service.

Improvement. It is defined as making the non-conforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

Individual sewage treatment system (ISTS). A sewage treatment system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated the word "system", as it appears in this Ordinance, means an individual sewage treatment system.

Industrial use. The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

Intensive vegetative clearing. The substantial removal of trees or shrubs in a contiguous patch, strip, row or block.

Interim use permit. A temporary use of property until a particular date, until the occurrence of a particular event, until zoning regulations no longer permit it, or until the land occupation of the interim use changes ownership.

Landing. A level area at the top, bottom, or a switchback point of a section of stairway, with or without a railing.

Lift. A mechanical device, motorized or otherwise that aids in the ascent or descent of steep slopes or bluffs.

Lot. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means, and separated from other parcels by its description.

Lot area. The area of land within the boundaries of a lot, excluding any part below the ordinary high water level.

Lot line, front. For a riparian lot, the front lot line is that line indicating the ordinary high water level abutting the waterbody. For a nonriparian lot, a front lot line is a line dividing a lot from any public road right-of-way or private road right-of-way or easement, except a limited or controlled access road to which the lot has no access or, if no public or private road right-of-way or easement, the boundary line from which access to the lot is gained. For lots that abut two or more rights-of-way and/or private road easements, the front lot line shall be determined by the Environmental Services Director.

Lot lines, The lines bounding a lot, as defined herein.

Lot line, rear. The lot line opposite and most distant from the front lot line.

Lot line, side. Any lot line which is not a front lot line or a rear lot line.

Lot width. The shortest horizontal distance between side lot lines measured at the building line and on riparian lots, also measured between lot corners at the ordinary high water level of the adjacent lake or river.

Maintenance. Normal upkeep of a structure to include the replacement of windows, siding, external roof surfaces, or exterior finish such as paint or stain.

Manufactured housing. Structures, transportable in one or more sections, which in the traveling mode, is eight body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under M.S. 327.31. Manufactured housing includes mobile homes, modular homes, and/or prefabricated housing.

Marker, driveway entrance. Any non-dwelling unit structure erected adjacent to and/or over a property's driveway at the point where the driveway bisects the property line and/or road right-of-way boundary and whose sole purpose is to mark and identify the property line and/or road right-of-way boundary. A driveway entrance marker is considered a special structure and is exempt from the setback and permit requirements of this Ordinance.

Mining. The use of land for surface or subsurface removal of metallic minerals and peat as regulated under Minnesota Statutes, sections 93.44 through 93.51.

Mobile home. A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted. Mobile homes shall be treated as single household housing units.

Mobile home park. Any premises on which two or more mobile or manufactured homes, or any premises used or held out for the purpose of supplying to the public a parking space for two or more of such mobile or manufactured homes. Sales lots on which automobiles or unoccupied mobile or manufactured homes, new or used, are parked for purposes of inspection or sale are not included in this definition. For purposes of this Ordinance mobile home parks shall be considered a residential planned unit development.

Multiple dwelling. A structure designed or used for residential occupancy by more than one household, with or without separate kitchen or dining facilities, including apartment houses, rooming houses, boarding hotels, hospitals or nursing homes.

Nonconformity. "Nonconformity" means the same as that term is defined or described in Minnesota Statutes, chapter 394. (Note: To provide an idea of what this definition is, the "nonconformity" definition in MS 394.22 Subd. 8 on October 28, 2014 was: "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.”)

Non-riparian lot. A lot that does not abut public waters of the State.

Open space. A portion of a development site that is permanently set aside for private use, is held in common ownership by all individual owners within a development, and will not be developed. Open space shall include wetlands, upland recreational areas, wildlife areas, historic sites, and areas unsuitable for development in their natural state. Open space is not the space between buildings of a cluster in a planned unit development and it does not include an area of 25 feet around each structure or any impervious surface.

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

Overnight guest occupant: Anyone present at the short-term rental between the hours of 10:00 p.m. and 7:00 a.m.

Pasture. Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

Performance bond. A bond which may be required by the County Board, Planning Commission, or Board of Adjustment to insure the completion of any activity falling under the jurisdiction of this Ordinance.

Planned unit development (PUD). A type of development characterized by a united 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, time-share condominiums; cooperatives; full fee ownership, commercial enterprises; or any combination of these, or cluster subdivisions of dwelling units; residential condominiums; townhouses; apartment buildings; campgrounds; recreational vehicle parks; mobile home parks; resorts; hotels; motels; and conversions of structures and land uses to these uses.

Planned unit development, commercial. Are typically uses that provide transient, short-term lodging spaces, rooms or parcels and their operations are essentially service-oriented. Hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are examples of commercial planned unit developments.

Planned unit development, residential. 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; time share condominiums; townhouses;

cooperatives; and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Planning Commission. The Hubbard County Planning Commission as duly appointed by the Hubbard County Board of Commissioners.

Platform. A horizontal, unenclosed open recreation area that is made out of any material and attached or functionally related to a principal use or site and within one foot of pre-existing or natural grade. Platforms may not have attached railings, seats, trellises or other features that extend more than one foot above pre-existing or natural grade.

Private road. A road providing access to one or more lots which is not dedicated to or maintained by the public.

Professional services business. A business conducting professional and management duties and services including medical and dental clinics and offices, psychiatrists and psychologists offices, architectural, engineering, planning and legal offices, and similar uses.

Public road. Any vehicular way which is a federal, state, county, or township roadway; or is shown upon a certificate of survey, minor subdivision, or plat approved pursuant to law as dedicated to public use; or is dedicated for public use.

Public waters. Any waters as defined in Minnesota Statutes, Section 103G.005, subdivision 15-18. However, no lake, pond or flowage of less than 25 acres in size will be regulated for purposes of these parts. A body of water created by a private user where there was no previous shoreland shall be exempt from the provisions of this ordinance. The official determination of the size of public water basins and physical limits of drainage areas of rivers and streams shall be made by the Commissioner.

Public access with boat launch. A riparian property owned by a governmental entity that is available for public use and that usually provides a watercraft launch/retrieval access ramp and often includes a vehicle/trailer parking area.

Recreational vehicle. Any of the following:

1. Travel trailer means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses.
2. Pick-up coach means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
3. Motor home means a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
4. Camping trailer means a folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

Recreation use area. The area allowed within the shore impact zone for residential lots, conservation subdivisions, planned unit developments, and new resorts.

Repairs and maintenance. An alteration of the interior or exterior portion of a structure that does not involve the replacement of the main structural frame, walls, or changes in the exterior dimensions of the structure.

Replacement, reconstruction, or restoration means construction that exactly matches pre-existing conditions.

Resort. A private commercial recreational development which includes multiple units intended for habitation on a transitory basis for the purpose of providing relaxation or recreational opportunities to guests.

Retail shop. Refers to a broad range of commercial activities operating out of a permanent structure catering to the general public. – OR – Establishments which deal directly with the ultimate consumer for whom the goods or services are furnished.

Riparian lot. Any lot which is bounded on one or more sides by public waters frontage.

Semi-public use. The use of land by a private nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

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

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

Sewer system. Pipelines, conduits, pumping stations, force main and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial or other wastes to a point of ultimate disposal.

Shore impact zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback required by this ordinance.

Shoreland. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage and the Mississippi River in the Mississippi Headwaters Corridor; and 500 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and where approved by the Commissioner.

Shoreline recreation use area. The area allowed within the shore impact zone for residential, riparian lots.

Short-term Rental. A private single family dwelling, such as a home, cabin, condominium, or other similar single family unit, that is advertised as, or held out to be, a place where sleeping accommodations are furnished to the public on a nightly, weekly, or for less than a 30-day period and is not permitted as a commercial PUD by the County as a bed and breakfast, resort, hotel or motel.

Sidewalk. A hard surfaced pedestrian path.

Significant historic site. Any archeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Single family residential use. The use of the land or buildings for a single family dwelling.

Single household dwelling. A structure, designated or used for residential occupancy by one household.

Special structure. A special structure not subject to one or more setback requirements which have been prescribed by this Ordinance.

Stable. A building or structure in which domestic animals are sheltered and fed.

Stairway. A series of steps or flights of steps for passing from one level to another.

Steep slope. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the soil characteristics of the site, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having slopes over twelve percent, as measured over horizontal distances of fifty feet or more, that are not bluffs.

Structure. Any building or appurtenance, including decks, except aerial or underground utility lines such as: sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting appurtenances. Fences, lawn lights, antennae, and related minor equipment shall not be considered structures.

Subdivider. Any person who undertakes the subdivision of land as defined herein. The subdivider may be the owner or the authorized agent of the owner of the land to be subdivided.

Subdivision. Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

Surface water-oriented commercial use. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Tavern. An establishment where alcoholic beverages are sold to be consumed on the premises, sometimes also serving food.

Temporary structure. Any structure which has been erected or moved onto a lot in order to be utilized for any purpose for a limited period of time not to exceed 120 consecutive days in a calendar year.

Toe of the bluff. The lower point of a 50-foot segment with an average slope exceeding 18 percent.

Top of the bluff. The higher point of a 50-foot segment with an average slope exceeding 18 percent.

Tower. Any pole, spire, structure or combination thereof, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting antenna or to serve as an antenna, or for the placement of a wind energy conversion system.

Unincorporated area. The area outside of the incorporated area of a city.

Variance. "Variance" means the same as that term is defined or described in Minnesota Statutes, chapter 394. (Note: To provide an idea of what this definition is, the "nonconformity" definition in MS 394.22 Subd. 10 on October 28, 2014 was: "Variance" means any modification or variation of official controls where it is deemed that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.)

Water-oriented accessory structure or facility. A small, above ground 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 such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks. These structures or facilities are not allowed in Hubbard County unless they meet the structure setback provisions of this Ordinance or comply with all provisions of Section 601 Paragraph #3.

Wetland. Any lands as defined in Minnesota Statutes, section 103G.005, subdivision 19. These lands are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have the following three attributes:

- (1) have a predominance of hydric soils;
- (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) under normal circumstances support a prevalence of such vegetation.

Youth Camp. A parcel or parcels of land with permanent structures, tents, or other structures together with appurtenances thereon, established or maintained as living quarters where both food and beverage service and lodging or the facilities thereof are provided for ten or more people, operated continuously for a period of five days or more each year for educational, recreational, or vacation purposes, and the use of the camp is offered to minors free of charge or for payment of a fee. This definition does not include cabin and trailer camps, fishing and hunting camps, resorts, penal and correction camps, industrial and construction camps, nor does it include homes operated for care or treatment of children and for the operation of which a license is required under the provisions of Minnesota Statutes, Chapter 257.

Article II Public Waters Classification System

The public waters of Hubbard County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Hubbard County, Minnesota.

The shoreland areas for the waterbodies listed in Sections 201 through 207 shall be as defined in Section 101 of this Ordinance for those waterbodies listed here and as shown on the Official Shoreland Management Map for Hubbard County. The public waters of Hubbard County have been classified as follows:

Section 201. Natural Environment

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>	<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-6	No Name	Badoura	29-104	No Name	Mantrap
29-8	Mastny	White Oak	29-112	No Name	Mantrap
29-10	Gauldin	White Oak	29-120	No Name	Thorpe
29-11	No Name	White Oak	29-137	Dehart	Guthrie
29-13	Mary	White Oak	29-139	Kimball	Guthrie
29-21	No Name	White Oak	29-158	No Name	Hubbard
29-24	No Name	Akeley-White Oak	29-159	No Name	Hubbard
			29-160	No Name	Hubbard
29-26	No Name	Akeley	29-181	No Name	Lake
29-35	No Name	Akeley			Emma
29-49	Lester	Steamboat River	29-182	Sixteen	Lake Emma
29-54	Spring	Lakeport	29-183	Little Rice	Lake Emma
29-55	No Name	Lakeport			Emma
29-57	No Name	Lakeport	29-189	Beaver	Lake Emma
29-63	Hart	Hart Lake			Emma
29-64	No Name	Hart Lake	29-211	No Name	Clay
29-76	Knutson	Farden-	29-213	No Name	Clay
	Guthrie		29-229	Rosie	School-craft
29-79	No Name	Crow Wing Lake			craft
29-84	No Name	Crow Wing Lake	29-233	Hubbard	School-craft
			29-257	Many Arms	Arago
29-94	Tamarack	Nevis	29-267	Lower Mud	Arago-
29-95	Holland-Lucy	Nevis			Clover
29-97	Clausens	Mantrap-Nevis	29-273	No Name	Clover
			29-280	Rose	Clover
29-102	No Name	Mantrap	29-284	Upper Mud	Clover
			29-304	Bond	Lake
					Hattie
			29-308	No Name	Fern
			29-311	No Name	Straight River

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>	<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-1	Kettle	Badoura	29-89	Shallow	Nevis
29-3	Nagel	Badoura	29-96	Shinker	Nevis
29-4	Mud	Badoura	29-98	Waboose	Mantrap
29-7	Island	White Oak	29-99	No Name	Mantrap
29-16	Hay	White Oak	29-101	Crooked	Mantrap
29-18	Little Ham	White Oak	29-105	No Name	Mantrap
29-20	Loon	White Oak	29-106	No Name	Mantrap
29-22	Steel	Akeley - White Oak	29-108	Coon	Mantrap
29-23	Robinson Oak	Akeley-White	29-116	Crow Wing	Mantrap
29-29	Schroeder	Akeley	29-119	Mud	Thorpe
29-33	Little Bass	Akeley	29-126	Gillette	Hendrickson
29-34	Upper Bass	Akeley	29-128	Island	Hendrickson
29-41	Cramer	Akeley	29-130	Twenty-One	Hendrickson
29-43	Shingobee	Akeley	29-131	Nelson	Hendrickson
29-44	Mud	Akeley	29-134	Upper Thatcher	Guthrie
29-58	Willow	Lakeport	29-135	Hatchers	Guthrie
29-59	Horseshoe	Lakeport	29-136	Horsehead	Guthrie
29-60	Oak	Lakeport	29-144	Sunday	Nevis- Henrietta
29-65	Mud	Farden	29-145	Round	Nevis- Henrietta
29-67	Little Midge	Farden	29-147	Petit	Lake Emma
29-68	Bowman	Farden	29-154	Tepee	Clay-Thorpe
29-73	Owl	Akeley- Mantrap	29-155	Sheridan	Lake George
29-74	Indian	Akeley- Mantrap	29-157	Upper Twin	Hubbard
29-78	4th Crow Wing	Crow Wing Lake	29-163	Deer	Henrietta- Lake Emma
29-80	Little Stony	Crow Wing Lake	29-164	Sweitzer	Henrietta
29-81	Wolf	Crow Wing Lake	29-165	Rockwell	Henrietta
29-82	No Name	Crow Wing Lake	29-168	Mud	Henrietta
29-83	Bladder	Crow Wing Lake	29-169	Peysenski	Henrietta
29-87	Palmer	Crow Wing Lake	29-170	Ida	Henrietta- Lake Emma
			29-171	Ingram	Henrietta- Lake Emma
			29-172	Stocking	Lake Emma
			29-175	Stony	Lake Emma
			29-177	Rice	Lake Emma
			29-187	Dead Horse	Lake Emma
			29-195	Deep	Clay
			29-197	Pine	Clay

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-199	Birch	Clay
29-202	Sawyer	Clay
29-206	Buck	Clay
29-212	Skunk	Clay
29-215	Schoolcraft	Clay-Lake George
29-217	Paine	Lake George
29-218	Shanty	Lake George
29-227	Evergreen	Schoolcraft
29-230	Wolf	Schoolcraft
29-231	Twenty	Schoolcraft
29-234	Minnie	Schoolcraft
29-235	Arrow	Rockwood
29-237	Newman	Rockwood
29-239	Spearhead	Rockwood
29-240	Lilypad	Rockwood
29-241	Frontenac	Rockwood
29-245	Emma	Lake Hattie-Schoolcraft
29-246	Hennepin	Fern-Rockwood
29-247	Moran	Straight River
29-248	Lord	Straight River
29-251	Mud	Todd
29-255	Bunness	Arago
29-258	No Name	Arago
29-265	Beden	Arago
29-266	Sloan	Arago
29-269	No Name	Clover
29-272	Sibilant	Clover-Lake Alice
29-275	Blacksmith	Clover
29-276	Upper Camel	Clover
29-277	Coon	Clover
29-288	Brisbane	Lake Alice
29-289	Mary	Lake Alice
29-291	Spider	Lake Alice
29-292	Beauty	Lake Alice
29-297	Assawa	Lake Hattie
29-301	Beauty	Lake Hattie
29-303	Lost	Lake Hattie
29-307	Diamond	Fern
29-310	Brush	Straight River
29-312	Cedar	Clover

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
<u>Boundary Lakes</u>		
11-503	Bess (with Cass County)	Akeley
80-19	Mud (with Wadena County)	Crow Wing Lake

Section 202. Recreational Development Lakes

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-2	Mow	Badoura
29-5	Tripp	Badoura
29-15	Williams	White Oak
29-17	Ham	White Oak
29-25	9th Crow Wing	Akeley-White Oak
29-32	Big Bass	Akeley
29-36	11th Crow Wing	Akeley
29-45	10th Crow Wing	Akeley
29-48	Benedict	Steamboat River
29-61	Garfield	Hart Lake-Lakeport
29-66	Midge	Farden
29-71	Grace	Farden
29-72	8th Crow Wing	Nevis-White Oak
29-75	Kabekona	Hendrickson-Lakeport-River
29-77	3rd Crow Wing	Crow Wing Lake
29-85	2nd Crow Wing	Crow Wing Lake
29-86	1st Crow Wing	Crow Wing Lake
29-88	Island	Crow Wing Lake
29-90	Deer	Nevis
29-91	7th Crow Wing	Nevis
29-92	5th Crow Wing	Nevis

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-93	6th Crow Wing	Nevis
29-110	Dead	Mantrap
29-117	Spider	Mantrap
29-142	Duck	Crow Wing Lake-Hubbard
29-143	Big Stony	Crow Wing Lake-Hubbard
29-146	Belle Taine	Henrietta-Nevis
29-148	Upper Bottle	Lake Emma
29-149	Ojibway	Lake Emma-Mantrap
29-150	Little Sand	Lake Emma-Henrietta
29-151	Big Mantrap	Mantrap-Clay-Thorpe-Lake Emma
29-156	Plantaganet	Helga-Rockwood
29-161	Long	Henrietta-Hubbard
29-162	Boulder	Henrietta
29-178	Pickereel	Lake Emma
29-180	Lower Bottle	Lake Emma
29-184	Blue	Lake Emma
29-185	Big Sand	Lake Emma
29-186	Emma	Lake Emma
29-188	Gilmore	Lake Emma
29-190	Loon	Lake Emma
29-208	Bad Axe	Clay
29-216	Lake George	Lake George
29-242	Fish Hook	Henrietta-Todd
29-243	Potato Emma	Arago-Lake

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
29-249	Hinds	Straight River
29-250	Portage	Todd
29-254	Island	Arago
29-256	Eagle	Arago
29-286	Alice	Lake Alice
29-300	Hattie	Lake Hattie
29-309	LaSalle	Fern
29-313	Little Mantrap	Clover

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
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Boundary Lakes

11-502	Crystal (with Cass County)	White Oak
11-504	Steamboat (with Cass County)	Hart Lake
11-505	Little Wolf (with Cass County)	Farden
4-79	Wolf (with Beltrami County, in Miss. Headwaters Board corridor and jurisdiction)	Farden
15-1	Big LaSalle (with Clearwater County)	Lake Hattie

Section 203. General Development Lakes

<u>Lake I.D. Number</u>	<u>Lake Name</u>	<u>Township</u>
11-203	Leech (on the boundary with Cass County)	Steamboat River

Section 204. Special Protection River Segments

<u>River</u>	<u>From</u>	<u>To</u>
Mississippi	Border of Hubbard and Clearwater Counties, in Miss. Headwaters Board corridor and jurisdiction	North section line, Sec. 17, T145N, R35W
Mississippi	South section line, Sec. 8, T145N, R35W, in Miss. Headwaters Board corridor and jurisdiction	Border of Hubbard and Beltrami Counties

Section 205. Remote River Segments

<u>River</u>	<u>From</u>	<u>To</u>
Schoolcraft	South section line, Sec. 28, T144N, R34W	Inlet of Plantagenet Lake in in Sec. 18, T145N, R33W
Crow Wing	Outlet of Second Crow Wing Lake in Sec. 21, T139N, R33W	Border of Hubbard and Wadena Counties

Section 206. Forested River Segments

<u>River</u>	<u>From</u>	<u>To</u>
Schoolcraft	U.S. 71 bridge in Sec. 20, T143N, R34W	North section line, Sec. 33, T144N, R34W
Crow Wing	Outlet of Fifth Crow Wing Lake in Sec. 30, T140N, R33W	Inlet of Fourth Crow Wing in Sec. 4, T139N, R33W
Shell	Border of Becker and Hubbard Counties	Border of Hubbard and Wadena Counties
Shell	Border of Hubbard and Wadena Counties	Inlet of Upper Twin Lake in Sec. 31, T139N, R34W
Shell	Border of Hubbard and Wadena Counties	Confluence with Crow Wing River in Sec. 32, T139N, R33W
Fish Hook	Confluence with Straight River in Sec. 7, T139N, R34W	Confluence with Shell River in Sec. 30, T139N, R34W
Straight	Border of Becker and Hubbard Counties	Confluence with Fish Hook River in Sec. 7, T139N, R34W

Section 207. Tributaries

<u>River</u>	<u>From</u>	<u>To</u>
LaSalle	Sec. 7 (at Hwy. 200) T143N, R35W	Sec. 19, T145N, R35W (confluence w/Miss. River)

Section 207. Tributaries (Continued)

<u>River</u>	<u>From</u>	<u>To</u>
Hennepin Creek	Sec. 28 (at Basin 29-564) T144N, R35W	Border of Hubbard and Beltrami Counties
Schoolcraft	Sec. 32 (at Basin 29-215) T143N, R34W	Sec. 20 (at U.S. 71) T143N, R34W
Schoolcraft Creek	Sec. 7 (at Basin 29-198) T142N, R34W	Sec. 5 (at Basin 29-215) T142N, R34W
Unnamed to Schoolcraft Creek	Sec. 17 (at Basin 29-527) T142N, R34W	Sec. 8 (at confluence with Schoolcraft Creek) T142N, R34W
Birch Creek	Sec. 2 (at Basin 29-286) T143N, R35W	Sec. 4 (at confluence with Schoolcraft River) T143N, R34W
Lake Alice Creek	Sec. 15, T143N, R35W	Sec. 11 (at Basin 29-286) T143N, R35W
Unnamed to Lake Alice	Sec. 9 (at Basin 29-535) T143N, R35W	Sec. 2 (at Basin 29-286) T143N, R35W
Unnamed to Birch Creek	Sec. 35 (at Basin 29-304) T144N, R35W	Sec. 36 (at confluence with Birch Creek) T144N, R35W
Alcohol Creek	Sec. 15 (at Basin 29-216) T143N, R34W	Sec. 21 (at confluence with Schoolcraft River) T144N, R34W
Frontenac Creek	Sec. 27 (at Basin 29-241) T145N, R34W	Sec. 3 (at confluence with Schoolcraft River) T144N, R34W
Rat Creek	Sec. 8 (at Basin 29-227) T144N, R34W	Sec. 28 (at Basin 29-241) T145N, R34W
Skunk Creek	Sec. 6, T144N, R34W	Sec. 8 (at Basin 29-227) T144N, R34W
Dead Creek	Sec. 21 (at Co. Rd. 9) T145N, R34W	Sec. 28 (at Basin 29-241) T145N, R34W
Brokaw Creek	Sec. 11 (at Basin 29-228) T144N, R34W	Sec. 2 (at confluence with Schoolcraft River) T144N, R34W
Cold Creek	Sec. 19, T145N, R33W	Sec. 19 (at Basin 29-156) T145N, R33W

Section 207. Tributaries (Continued)

<u>River</u>	<u>From</u>	<u>To</u>
Revoir Creek	Sec. 23 (at Basin 29-239) T145N, R34W	Sec. 13 (at Basin 29-156) T145N, R34W
Necktie River	Sec. 1, T145N, R33W	Sec. 26 (at Basin 11-504) T144N, R32W
Bungashing Creek	Sec. 4, T144N, R33W	Sec. 28, T145N, R32W (at confluence with Necktie River)
Unnamed to Bungashing Creek	Sec. 26, T145N, R33W	Sec. 26, T145N, R33W (at confluence with Bungashing Creek)
Pokety Creek	Sec. 24, T144N, R33W	Sec. 29, T144N, R32W (at confluence with Necktie River)
Unnamed to Pokety Creek Creek)	Sec. 29, T144N, R32W	Sec. 29, T144N, R32W (at confluence with Pokety
Unnamed Tributary	Sec. 1 (at Basin 29-54) T143N, R32W	Sec. 1, T143N, R32W (Border of Hubbard and Cass Counties)
Kabekona River	Sec. 24, T144N, R34W	Sec. 1 (Basin 11-203), T142N, R32W
Unnamed to Kabekona River	Sec. 36, T144N, R34W	Sec. 25 (at confluence with Kabekona River) T144N, R34W
Stall Creek	Sec. 13, T143N, R33W	Sec. 12, T143N, R33W (at confluence with Kabekona River)
Gulch Creek	Sec. 28 (at Basin 29-125) T143N, R33W	Sec. 24 (at Basin 29-75) T143N, R33W
Sucker Brook	Sec. 6 (at Basin 29-49) T142N, R32W	Sec. 30 (at Basin 29-75) T143N, R32W
Unnamed to Oak Lake	Sec. 16 (at Basin 29-57) T143N, R32W	Sec. 27 (at Basin 29-60) T143N, R32W
Grassy Creek	Sec. 24, T143N, R32W	Sec. 26, T143N, R32W (at confluence with Kabekona River)
Unnamed to Leech Lake	Sec. 1 (at Basin 29-48) T142N, R32W	Sec. 1 (at Basin 11-203) T142N, R32W

Section 207. Tributaries (Continued)

<u>River</u>	<u>From</u>	<u>To</u>
Shingobee River	Sec. 35 (at Basin 29-22) T141N, R32W	Sec. 24, T141N, R32W (Border of Hubbard and Cass Counties)
Unnamed to Steel Lake	Sec. 11 (at Basin 29-14) T140N, R32W	Sec. 2 (at Basin 29-22) T140N, R32W
Unnamed to Island Lake	Sec. 11 (at Basin 29-12) T140N, R32W	Sec. 2 (at Basin 29-7) T140N, R32W
Unnamed to Big Sand Lake	Sec 6 (at Basin 29-151) T141N, R33W	Sec. 23 (at Basin 29-185) T141N, R34W
Sand River	Sec. 35 (at Basin 29-185) T141N, R34W	Sec. 5 (at Basin 29-89) T140N, R33W
Hellcamp Creek	Sec. 24, T140N, R34W	Sec. 19 (at Basin 29-92) T140N, R33W
Wallingford Creek	Sec. 25 (at Basin 29-94) T140N, R33W	Sec. 10 (at Basin 29-77) T139N, R33W
Mucky Creek	Sec. 12 (at Basin 29-397) T139N, R33W	Sec. 11, T139N, R33W
Bender Creek	Sec. 18 (at Basin 29-5) T139N, R32W	Sec. 27 (at Basin 29-86) T139N, R33W
Unnamed to Tripp Lake	Sec. 8 (at Basin 29-2) T139N, R32W	Sec. 17 (at Basin 29-5) T139N, R32W
Unnamed to Bender Creek	Sec. 21 (at Basin 29-320) T139N, R32W	Sec. 19, T139N, R32W (at confluence with Bender Creek)
Blueberry River	Sec. 30, T139N, R35W (Border of Hubbard and Becker Counties)	Sec. 31, T139N, R35W (Border of Hubbard and Becker Counties)
Unnamed to Shell River	Sec. 26 (at Basin 29-249) T139N, R35W	Sec. 36, T139N, R35W (at confluence with Shell River)
Fish Hook River	Sec. 36 (at City limits of Park Rapids) T140N, 35W	Sec. 30, T139N, R34W at confluence with Shell River)
Unnamed to Island Lake	Sec. 8 (at Basin 29-255) T141N, R35W	Sec. 5 (at Basin 29-254) T141N, R35W
Unnamed to Island Lake	Sec. 33 (at Basin 29-280) T142N, R35W	Sec. 3 (at Basin 29-254) T141N, R35W

Section 207. Tributaries (Continued)

<u>River</u>	<u>From</u>	<u>To</u>
Unnamed to Upper Mud Lake	Sec. 36 (at 29-522) T142N, R35W	Sec. 34 (at Basin 29-284) T142N, R35W
Hay Creek (Border of Hubbard & Becker Co.)	Sec. 18, T141N, R35W	Sec. 22 (at Basin 29-243) T141N, R35W
Unnamed to Potato Lake	Sec. 18 (at Basin 29-177) T141N, R34W	Sec. 19 (at Basin 29-243) T141N, R34W
Potato River	Sec. 31 (at Basin 29-243) T141N, R34W	Sec. 2 (at Basin 29-242) T140N, R35W
Portage River	Sec. 9 (at Basin 29-250) T140N, R35W	Sec. 10 (at Basin 29-242) T140N, R35W
Unnamed to Fish Hook River	Sec. 20 (at Basin 29-161) T139N, R34W	Sec. 19 (at confluence with Fish Hook River) T139N, R34W
Crow Wing River	Sec. 28 (at Basin 29-36) T141N, R32W	Sec. 20 (at Basin 29-92) T140N, R33W
Crow Wing River	Sec. 9 (at Basin 29-78) T139N, R33W	Sec. 20 (at Basin 29-85) T139N, R33W

All protected watercourses in Hubbard County shown on the Protected Water Inventory map for Hubbard County, which is hereby adopted by reference, not given a classification in Sections 204 through 207 of this Ordinance, shall be considered 'tributary'.

Section 208. Established Ordinary High Water Level Elevations.

The following public waters of Hubbard County have an ordinary high water level elevation established.

<u>DNR ID #</u>	<u>LAKE NAME</u>	<u>OHW ELEVATION</u>	<u>HIGHEST KNOWN LAKE ELEVATION</u>	<u>DATUM</u>
4-0079	Big Wolf	1303.1		1929 w/Beltrami County
11-0203	Leech	1294.9		1929
11-0502	Crystal	1397.4		1929 w/Cass County
11-0505	Little Wolf Lake	1306.7		1929
29-0002	Mow	145.70		ASSUM
29-0005	Tripp	1391.8		
29-0025	Ninth Crow Wing	1386.10	1386.58	1929
29-0036	Eleventh Crow Wing	1391.50	1391.7	1929

29-0045	Tenth Crow Wing	1386.10	1386.58	1929
29-0061	Garfield	1312.10		1929
29-0066	Midge Lake	1319.3	1318.31	1929
29-0071	Grace	1329.00		1929
29-0072	Eighth Crow Wing Lake	1386.10	1386.58	1929
29-0075	Kabekona	1297.60		1929
29-0077	Third Crow Wing	1364.5		1929
29-0078	Fourth Crow Wing	1364.5		1929
29-0085	Second Crow Wing	1364.5		1929
29-0086	First Crow Wing	1364.10		1929
29-0087	Palmer	1366.8	1367.13	1929
29-0088	Island	1370.50	1371.21	1929
29-0089	Shallow	1428.3		
29-0090	Deer	1428.3		
29-0091	Seventh Crow Wing	1383.0		
29-0092	Fifth Crow Wing	1381.6		1929
29-0093	Sixth Crow Wing	1381.6		1929
29-0097	Clausens	1428.3		
29-0101	Crooked, East, Middle, & West	1441.50		1929
29-0110	Dead Lake	1440.3	1440.6	1929
29-0117	Spider (Mantrap Twp.)	1433.60		1929
29-0143	Big Stoney	1389.80	1391.11	1929
29-0145	Round	1428.3		
29-0146	Belletaine	1428.30		1929
29-0148	Upper Bottle	1429.50	1429.83	1929
29-0149	Ojibway Lake	1440.3	1440.6	1929
29-0150	Little Sand	1428.30		1929
29-0151	Big Mantrap	1434.70		1929
29-0156	Plantaganet	1343.10		1929
29-0161	Long	1379.70		1929
29-0162	Boulder	1428.60	1429.3	1929
29-0169-01	Peysenski, west bay	1407.5		
29-0169-02	Peysenski, east bay	1408.9		

29-0170	Ida	1428.30		1929
29-0172	Stocking	1430.4		
29-0178	Pickereel	1456.90		1929
29-0180	Lower Bottle	1429.50	1429.83	1929
29-0184	Blue	1443.70	1444.04	1929
29-0185	Big Sand	1428.30		1929
29-0186	Emma	1428.80	1429.7	1929
29-0189	Beaver Lake	1429.30	1428.9	1929
29-190	Loon Lake	1429.20	1429.7	1929
29-0208	Bad Axe	1439.50		1929
29-211	Unnamed	1483.0		1988
29-0212	Skunk	1483.0	1485.2	1988
29-213	Unnamed	1483.0		1988
29-216	Lake George	1416.3	1417.3	1929
29-0227	Evergreen	1381.60		1929
29-0241	Frontenac	1375.7	1375.53	1929
29-0242	Fish Hook	1426.30		1929
29-0243	Potato	1440.50		1929
29-0246	Hennepin	1430.1		
29-247	Moran	1405.0	1405.30	1929
29-248	Lord	1405.0	1405.30	1929
29-249	Hinds	1370.2	1371.12	1929
29-250	Portage	1434.4	1435.10	1929
29-0251	Mud	1426.00		1929
29-0254	Island	1442.10		1929
29-0256	Eagle	1440.80		1929
29-0286	Alice	1419.8	1421.04	1929
29-0292	Beauty	97.7		ASSUM
29-0300	Hattie	1420.52		NGVD 29
29-0310	Brush	1445.8	1446.8	1929
29-0313	Little Mantrap	1519.80		1929
11-0203	Kabekona Bay-Leech	1294.90		1929
11-050400	Steamboat	1295.2	1295.2	

Article III

Establishment of Shoreland Management Districts

Section 301. Establishment of Shoreland Management Districts

The development of shorelands of public waters shall be controlled by means of shoreland management districts which are designated to be compatible with the classification of public waters. For purposes of this Ordinance, the following districts are created:

- | | |
|-----------------------------|-------------------|
| 1. Natural Environment | 5. Remote River |
| 2. Recreational Development | 6. Forested River |
| 3. General Development | 7. Tributary |
| 4. Special Protection | |

Section 302. Management Goals and Objectives

1. The Natural Environment (NE) management district is established to preserve and enhance high quality waters by protecting them from pollution and to protect shorelands of waters which are unsuitable for development; to maintain a low density of development; and to maintain high standards of quality for permitted development.
2. The Recreational Development (RD) management district is established to manage proposed development reasonably consistent with existing development and use; to provide for the beneficial use of public waters by the general public, as well as the riparian owners; to provide for a multiplicity of lake uses; and to protect areas unsuitable for residential and commercial uses from development.
3. The General Development (GD) management district is established to provide minimum regulations in areas presently developed as high density, multiple use areas; and to provide guidance for future growth of commercial and industrial establishments which require locations on protected waters.
4. The Special Protection (SP) management district is established to limit development along unique protected watercourses.
5. The Remote River (RR) management district is established to preserve wilderness and near wilderness settings along protected watercourses.
6. The Forested River (FR) management district is established to maintain existing levels of development densities while preserving the natural setting along protected watercourses.
7. The Tributary (Tr) management district is established to maintain or establish vegetated buffer strips to improve water quality along protected watercourses.

Section 303. Shoreland Management Map

An official shoreland management map, on file at the Environmental Services Department, Hubbard County Government Center, is hereby adopted by reference.

Article IV Shoreland Management District Requirements

Section 401. Permitted, Conditional, Special and Non-Permitted Uses

The following table shows the permitted, conditional, interim, and non-permitted uses for each of the shoreland management districts. Uses identified with a (P) are permitted provided that all of the requirements of this Ordinance are complied with. Uses identified with a (C) are allowed provided that the applicant meets the specified conditions for that use as prescribed in this Ordinance, and secures a conditional use permit. Uses identified with an (I) are allowed provided that the applicant meets the specified conditions for that use as prescribed in this Ordinance and secures an interim use permit. Uses identified with an (S) are permitted provided that all of the performance standards identified in Section 402 are met. Uses which are identified as (N) non-permitted, or those uses which are not identified in a particular management district, are not allowed.

Table 1-Use by Public Waters Classification

Use	Public Waters Classification				All Other River Segments
	NE	RD	GD	SP	
Single Family Residential	P	P	P	P	P
Short-term Rentals*	S	S	S	S	S
Accessory Uses	P	P	P	P	P
Boathouses	N	N	N	N	N
Duplex, Triplex, Quads*	C*	P	P	N	C*
Agricultural Uses*	S	S	S	S	S
Forest Management*	S	S	S	S	S
Forest Land Conversion	C	C	C	C	C
Event Center*	N	C	N	N	N
Extractive Uses*	N	I	I	N	I
Parks & Historic Sites	C	C	C	C	C
Nature Areas	P	P	P	P	P
Mining	P	P	P	P	P
Residential Planned Unit Development	C	C	C	N	C
Mobile Home Parks*	C	C	C	N	C
Commercial Planned Unit Development:	C	C	C	N	C
• Rec. Vehicle Camping Areas*					
• Hotels, Motels, Resorts					
• Bed & Breakfasts					
• Campgrounds	C	C	C	C	C
Restaurants, Drive-Ins, Dinner Clubs, Taverns & Private Clubs	C	C	C	N	C
Stables, Horsebarns & Barns for Livestock*	C	C	C	C	C
New Public Roads	C	C	C	C	C
Controlled Access Lot	N	N	N	N	N
Public Access with Boat Launch	C	C	C	C	C
Semi-Public Use	C	C	C	C	C
Fish & Wildlife Habitat Improvements*	S	S	S	C	S
Feedlot	N	N	N	N	N
Home Occupation*	S	S	S	S	S
Home Extended Businesses*	S	S	S	S	S
Group Home	N	C	C	N	C
Retail Shops	N	C	C	N	C
Professional Services Business	N	C	C	N	C
Church*	N	C	C	N	N
Youth Camp	C	C	C	N	N

*These uses must meet the performance standards identified in Section 402.

Section 402. Special Provisions

The following uses are subject to the following provisions in addition to all other requirements of this Ordinance.

1. Accessory buildings must be consistent with Article VI of this Ordinance.
2. Agricultural uses must be consistent with the provisions of Section 906 of this Ordinance.
3. Stables, horsebarns and barns for livestock must be consistent with Section 906 of this Ordinance.
4. Forest management uses must be consistent with Section 907 of this Ordinance.
5. Extractive uses must be consistent with Section 908 of this Ordinance.
6. Mobile Home Parks must be consistent with the following provisions:
 - A. Mobile home parks must be licensed by the Minnesota Department of Health (MDH), and must meet all MDH requirements in addition to the requirements of this Ordinance.
 - B. Each mobile home must meet minimum setback from both roads and the ordinary high water mark.
 - C. There shall be a minimum of fifteen (15) feet between the sides of adjacent mobile homes, including their attachments, and a minimum of ten (10) feet between mobile homes when parked end to end.
 - D. Each mobile home site shall be a minimum of 6,000 square feet in area.
 - E. A centralized sewage treatment system which meets all standards, criteria, rules and regulations of the Minnesota Department of Health and Pollution Control Agency must be installed. The system must meet the minimum setback provisions of this Ordinance.
 - F. Vegetative screening shall be maintained for the mobile home park in a manner consistent with the general intent of this Ordinance.
7. Recreational Vehicle Camping Areas must be consistent with the following provisions:
 - A. Recreational vehicle camping areas shall be licensed by and meet the minimum requirements of the Minnesota Department of Health in addition to the requirements of this Ordinance.
 - B. All recreational vehicles must meet the setback from the ordinary high water mark for the applicable class of public waters.
 - C. Each recreational vehicle camping site must be a minimum of 3,000 square feet in area.
 - D. A centralized sewage treatment system which meets the standards, criteria, rules and regulations of the Minnesota Department of Health and Pollution Control Agency must

be installed. The system must meet the minimum setback provisions of this Ordinance.

- E. Vegetative screening of the recreational vehicle camping area shall be maintained consistent with the intent of this Ordinance.
8. Home occupations must be consistent with the following provisions:
- A. The home occupation shall be clearly incidental and subordinate to the residential use of the property.
 - B. The home occupation shall be carried out by the inhabitants of the dwelling, with the assistance of no more than two non-resident employees on the premises at any given time.
 - C. Operation of the home occupation shall be limited to the residential dwelling and any attached garage.
 - D. The use of any accessory structures for storage or business activity is prohibited.
 - E. Signage shall consist of no more than 1 single or double-faced sign with a maximum area of two square feet per side.
 - F. The outdoor display or storage of goods, equipment or other materials used for the home occupation is prohibited.
 - G. Except for goods or articles produced on the premises, no stock in-trade shall be sold on the premises.
 - H. The home occupation shall not generate excessive customer or client traffic that is detrimental to the character of the surrounding properties.
 - I. Additional need for parking generated by the home occupation shall be limited to three spaces and shall meet all required setbacks.
 - J. All home occupations shall conform to Section 401.
 - K. Should the occupation be a professional service, clients shall not exceed 3 at any one time and related supplies shall not be considered stock-in-trade.
 - L. The home occupation shall not generate sewage of a nature or type that cannot be treated by a permitted on-site sewage treatment system.
 - M. There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat, or glare at or beyond the property line.
 - N. The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved by the Minnesota Pollution Control Agency.
9. Home Extended Businesses must be consistent with the following provisions:
- A. The home extended business shall be clearly incidental and subordinate to the

residential use of the property.

- B. The home extended business shall be carried out by the inhabitants of the dwelling, with the assistance of no more than two non-resident employees on the premises at any given time.
 - C. Operation of the home extended business shall be limited to the residential dwelling and accessory or agricultural structures on the same parcel.
 - D. Areas used for the outdoor display or storage of goods, equipment, vehicles, or other materials used for the home extended business shall be located to the rear of the structure and further buffered from adjacent residential uses with landscaping, fencing, or other acceptable methods of screening.
 - E. The home extended business shall not generate excessive customer or client traffic that is detrimental to the character of the surrounding properties.
 - F. There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
 - G. The home extended business shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved by the Minnesota Pollution Control Agency.
 - H. The home extended business at a dwelling with an onsite sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.
 - I. Signs shall meet the requirements of the Hubbard County Sign Ordinance.
10. Church buildings and any accessory structure or facility, which for purposes of this paragraph shall include all parking areas, must be consistent with the following provisions:
- A. The Church building and any accessory structure or facility must be located within tier three (3) or four (4) from the ordinary high water mark of a lake, pond or flowage or the landward extent of a flood plain designated by ordinance, whichever is greater.
 - B. The lot or parcel on which a Church building and any accessory structure or facility is located must be a non-riparian lot or parcel that does not have access to a lake, pond, flowage, river or stream by a controlled access lot, easement or by any other means.
11. Event centers and related outdoor items must be consistent with the following provisions:
- A. An event center use requires a conditional use permit.
 - B. An event center conditional use is only allowed on a non-riparian lot located in a Recreational Development (RD) classified management district.
 - C. The event center property shall be served by a minor collector or higher functional classification of roadway (per the classifications shown on the official map of Hubbard County Ordinance No. 34), except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission

for such use at the proposed location. Written permission from the responsible road authority is required to be submitted as part of a conditional use permit application.

- D. On-street vehicle parking is not allowed.
 - E. Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area in accordance with an approved stormwater management plan. Durable and dustless surface may include crushed rock and similar treatment. Parking areas for six (6) or fewer vehicles shall be exempt from this provision.
 - F. Off-street parking areas shall be of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees and shall provide one parking space for each three seats.
 - G. A parking space shall be at least nine (9) feet wide by twenty (20) feet long. In considering parking lots, a standard of three hundred (300) square feet per parking space shall be used to compute total requirements including maneuvering areas.
 - H. Where any commercial use is adjacent to property zoned or developed for residential use, that commercial use shall provide screening along the boundary of the residential property. Screening shall also be provided where a commercial use is across the street from a residential zone or use, but not on that side of a commercial use considered to be the front as determined by the Environmental Services Director. The screening required herein shall consist of fence, earth mounds/berms, trees, or shrubs. Plans for such screening shall be approved as part of the conditional use permit before the screening is erected.
12. On natural environment lakes, subdivisions of duplexes, triplexes, and quads must meet the following standards:
- A. Each structure must be set back at least 200 feet from the ordinary high water level.
 - B. Each structure must have common sewage treatment and water systems that serve all dwelling units in the structure.
 - C. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the structure.
 - D. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
13. All short-term rentals must be operated consistent with the following provisions:
- A. No short-term rental shall be operated without a valid short-term rental license issued pursuant to this Ordinance.

- B. These standards apply to all short-term rentals operating prior to May 1, 2022. All such pre-existing short-term rentals must come into compliance with these standards by May 1, 2022.
- C. All new short-term rental operations as of May 1, 2022 shall obtain a license from the Department prior to commencing operations.
- D. A separate short-term rental license is required for each allowed short-term rental unit on a lot that has short-term rental operations conducted on it.
- E. All short-term rental licenses are an annual license and must be renewed each year. License renewal applications for rental operations in the following year must be submitted and approved prior to any rental activity. No short-term rental use may occur without an approved, active (i.e. not expired) license.
- F. It is required that Hubbard County property tax payments are not delinquent.
- G. These short-term rental regulations only apply when a property is being actively used as a short-term rental. The property owner's personal use of the property is exempt from Section 402, Item 13 of this Ordinance.
- H. The property owner shall keep on file with the Department the name, and current telephone number and email address of a current contact person who is responsible for responding to questions or concerns regarding the operation of the short-term rental, and is responsible for producing the documentation required under Section 13.L.
- I. The overnight guest occupancy of a short-term rental unit shall be limited to no more than one (1) person for every 75 gallons (75) of water per day that the structure's subsurface sewage treatment system is designed to handle. If an SSTS servicing a short-term rental unit is a holding tank, the occupancy will be limited to no more than one (1) person for every 200 gallons of tank capacity.
- J. The SSTS servicing a short-term rental or rentals must be properly sized to accommodate the rented structure(s)' maximum occupancy made available to the public. The SSTS shall be designed and constructed with a design flow of seventy-five (75) gallons of water per person per day to handle the maximum overnight guest occupancy for which the short-term rental is licensed. Holding tanks shall be sized according to Minnesota Rules, Chapter 7080.
- K. A current SSTS certificate of compliance for any and all SSTS servicing a short-term rental must be submitted as part of a short-term rental license application.
- L. The following documentation must be kept on file and provided to the Department within 120 hours upon request by the County:
 - 1. Passing water test for nitrate and coliform dated within one year of current date for any and all wells providing water for use by a short-term rental unit or its users.
 - 2. Demonstration that the short-term rental operation has a license issued by the Minnesota Department of Health or written certification from the property owner that states that a license is not required from the State of Minnesota and that sufficiently explains the reasons that no license is required.

- M. Sufficient vehicle parking shall be accommodated completely onsite or by legal public parking options.
- N. Quiet hours of 10:00 p.m. to 7:00 a.m. are required to be kept by short-term rental users during which time noise levels need to be minimized. No outdoor music or outdoor parties are allowed during these quiet hours time periods. A short-term rental owner is expected to enforce these quiet hours.
- O. The following information shall be posted within the rental unit in a prominent location so as to be easily visible and read by the guests:
 - 1. A map clearly showing the property lines of a property on which a short-term rental use is occurring must be provided to rental customers and included in a rental customer informational guest book kept in a clearly visible and readily accessible location in the short-term rental structure.
 - 2. The full name and phone number of the owner or operator.
 - 3. The full name and phone number of the local contact person or local management agent.
 - 4. Local emergency contact information (law enforcement, fire, ambulance, septic maintainer).
 - 5. The maximum number of overnight guests approved in the short-term rental license.
 - 6. A copy of the Hubbard County Good Neighbor Brochure.
- P. The total licensed overnight guest occupancy shall be included on all advertisements or web-based reservation service pages.
- Q. Prior to occupancy, the owner, operator, or manager shall require the guest(s) to formally acknowledge responsibility for the compliance by all tenants or guests with the applicable laws, rules, and ordinances pertaining to short-term rentals in Hubbard County.
- R. No more than one short-term rental structure is allowed to be operated on a lot that does not meet the duplex lot size criteria in Article V of this Ordinance. No more than two short-term rental structures are allowed to be operated on a lot meeting or exceeding the duplex lot size criteria in said Article V.
- S. Storage, collection, and disposal of solid waste must comply with the Hubbard County Solid Waste Ordinance #18, or any successor or replacement.
- T. A short-term rental license cannot be transferred to a different party than the one licensed.
- U. Any violation of any of these criteria may result in the suspension/revocation of the short-term rental license.

**Article V
Height and Placement Regulations; Zoning Provisions**

Except as otherwise specifically provided for in this Ordinance, no new lot shall be created, which does not meet the following minimum dimensional requirements as specified in this Ordinance. No lot area shall be so reduced or diminished so that the yards or other open spaces are smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations in this Ordinance. Lots must not be occupied by any more dwelling units than indicated in Sections 501.1-501.6. Residential subdivisions with dwelling unit densities exceeding those in the tables in Sections 501.1-501.6 can only be allowed if designed and approved as residential planned unit developments per Article X of this Ordinance. The area of any lot shall not be reduced below the minimum standards specified herein with the following exception: units within a residential planned unit development can be smaller than the minimum lot size standards shown in the Article.

Section 501. Lot Area and Width Requirements

Following are the lot area, buildable area (BA), and lot width minimum requirements, measured at the building line on both riparian and non-riparian lots, and at the ordinary high water level on riparian lots, for all lots created after the date of enactment of this Ordinance.

Lots, existing or proposed, may lie partly or wholly within more than one shoreland management district or within a shoreland area and a non-shoreland area. In situations where shoreland management districts overlap on an existing or proposed lot, the most restrictive of the applicable shoreland management district lot area and width requirements shall control. In situations where a lot, existing or proposed, lie within a shoreland area and non-shoreland area, the lot area and width requirements applicable to where a simple majority (i.e. > 50%) of the lot area is located shall control.

Section 501.1. Natural Environment Lakes

Riparian Lot Area (sq. ft.) – BA (sq. ft.) – Width		Non-Riparian Lot Area (sq. ft.) – BA (sq. ft.) – Width	
Single	80,000-40,000-200	Single	120,000-60,000-200
Duplex	120,000-60,000-300	Duplex	160,000-80,000-400
Triplex	160,000-80,000-400	Triplex	240,000-120,000-600
Quad	200,000-100,000-500	Quad	320,000-180,000-800

Section 501.2. Recreational Development Lakes - Unsewered Lots

Riparian Lot Area (sq. ft.) – BA (sq. ft.) – Width		Non-Riparian Lot Area (sq. ft.) – BA (sq. ft.) – Width	
Single	40,000-20,000-150	Single	80,000-40,000-150
Duplex	80,000-40,000-225	Duplex	120,000-60,000-265
Triplex	120,000-60,000-300	Triplex	160,000-80,000-375
Quad	160,000-80,000-375	Quad	200,000-100,000-490

Section 501.3. Recreational Development Lakes - Sewered Lots

Sewered lot area dimensions can only be used if a publicly owned sewer system service is available on the property.

Riparian Lot Area (sq. ft.) – BA (sq. ft.) – Width		Non-Riparian Lot Area (sq. ft.) – BA (sq. ft.) – Width	
Single	30,000-15,000-100	Single	30,000-15,000-100
Duplex	60,000-30,000-150	Duplex	60,000-30,000-150
Triplex	90,000-45,000-200	Triplex	90,000-45,000-200
Quad	120,000-60,000-255	Quad	120,000-60,000-255

Section 501.4. General Development Lakes

Riparian Lot Area (sq. ft.) – BA (sq. ft.) – Width		Non-Riparian Lot Area (sq. ft.) – BA (sq. ft.) – Width	
Single	20,000-10,000-100	Single	40,000-20,000-150
Duplex	40,000-20,000-180	Duplex	80,000-40,000-265
Triplex	60,000-30,000-260	Triplex	120,000-60,000-375
Quad	80,000-40,000-340	Quad	160,000-80,000-490

Section 501.5. Special Protection River Segments

The minimum lot size for both riparian and non-riparian lots in the special protection management district is ten (10) acres.

Section 501.6. Minimum Width of River Segments and Tributaries

	<u>Special Protection</u>	<u>Remote</u>	<u>Forested</u>	<u>Tributaries</u>
Single	330	300	200	150
Duplex	450	450	300	225
Triplex	600	600	400	300
Quad	750	750	500	375

These minimum width requirements (in feet) apply to both riparian and non-riparian lots.

Section 501.7. Reduced Lot Widths

To allow reasonable flexibility in the design of lots, a rear lot line width on a riparian lot and a front lot line width on a non-riparian lot may be reduced to no less than one-half the required minimum lot width prescribed in Sections 501.1 through 501.6 provided the following conditions are met:

1. The total number of lots in a subdivision does not exceed the total linear road feet serving the subdivision divided by the required minimum lot width. Lots designed and approved to be served by existing roads shall be calculated separately from lots to be served by newly constructed roads;
2. Each lot contains the applicable required minimum buildable area exclusive of any portion of the lot not meeting minimum width requirements prescribed in Sections 501.1 through 501.6
3. On non-riparian lots, the minimum required lot width is met at the rear lot line and at the midpoint of the lot depth or 300 feet from the front lot line, whichever is closer to the front lot line.

Section 501.8. Minimum Depth of River Lots

The minimum depth on all special protection, remote, forested, and tributary river riparian and non-riparian lots created after the date of enactment of this Ordinance shall be 267 feet.

Section 501.9. Minimum Buildable Area of River Lots

The minimum buildable area (BA) on all river lots shall be as shown below:

	<u>Special Protection</u>	<u>Remote</u>	<u>Forested</u>	<u>Tributaries</u>
Single	44,000 sq. ft.	40,000 sq. ft.	26,700 sq. ft.	20,000 sq. ft.
Duplex	60,000 sq. ft.	60,000 sq. ft.	40,000 sq. ft.	30,000 sq. ft.
Triplex	80,100 sq. ft.	80,100 sq. ft.	53,400 sq. ft.	40,000 sq. ft.
Quad	100,125 sq. ft.	100,125 sq. ft.	66,750 sq. ft.	50,000 sq. ft.

Section 502. Setback Provisions

Structures constructed, or placed, after the date of enactment of this Ordinance shall meet the setbacks prescribed in this section. When more than one setback applies to a site, structures or facilities must be located to meet all setbacks.

Section 502.1. Natural Environment Lakes

Structure setback from ordinary high water level	150 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State, or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

Section 502.2. Recreational Development Lakes

Structure setback from ordinary high water level	100 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level*	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

Section 502.3. General Development Lakes

Structure setback from ordinary high water level	75 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.

Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level*	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

Section 502.4. Special Protection River Segments

Structure setback from ordinary high water level	200 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

Section 502.5. Remote River Segments

Structure setback from ordinary high water level	200 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

Section 502.6. Forested River Segments

Structure setback from ordinary high water level	150 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.
Sewage soil treatment system setback from ordinary high water level*	150 Ft.
<i>Impervious surface coverage shall not exceed 25 percent of the lot area.</i>	

Section 502.7. Tributaries

Structure setback from ordinary high water level	150 Ft.
Structure, sewage treatment system and driveway setback from side lot line	10 Ft.
Structure and sewage treatment system setback from rear lot line	10 Ft.
Structure setback from unplatted cemetery	50 Ft.
Structure setback from Federal, State or County Highway Right of Way	50 Ft.
Structure setback from Right of Way of other public roads	20 Ft.
Structure and ISTS setback from top of bluff	30 Ft.

Sewage soil treatment system setback from ordinary high water level*
Impervious surface coverage shall not exceed 25 percent of the lot area.

150 Ft.

* See Section 801 Paragraph #3 for special circumstances

Section 503. Bluff Impact Zones

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

Section 504. Height of Structures

No structures, except churches and non-residential agricultural structures, shall exceed thirty-five (35) feet in height. No structure in a Special Protection River Segment classification shall exceed eighteen (18) feet in height except for structures used for agricultural purposes that may be up to thirty-five (35) feet in height.

Section 505. Uses Without Water-Oriented Needs

Uses without water-oriented needs will be encouraged to locate on lots or parcels without public water frontage. If located on lots or parcels with public water frontage, such uses 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.

Section 506. Guest Cottages

One guest cottage will be allowed by land use permit on lots meeting or exceeding the single lot area and width dimension requirements prescribed in Section 501 of this Ordinance, provided the following minimum standards are met:

1. A guest cottage land use permit application must include color photos of the property's entire shore impact zone. Any violations of this ordinance identified as being present in the SIZ at the time of application by the Environmental Services Director shall be corrected as a condition of any guest cottage land use permit application that is approved.
2. A stand-alone guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height.
3. A guest cottage area not exceeding 700 square feet is allowed to be co-located within an accessory structure being put to one or more other, permitted uses. Said accessory structure shall not exceed 25 feet in height.
4. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
5. No nonconforming structure is allowed to be converted to a guest cottage.

Section 507. Design Criteria for Structures

Structures must be placed, and lots developed, in accordance with the following design criteria:

Section 507.1. High Water Elevations

Structures must be placed in accordance with any floodplain regulations applicable to the site. Where such controls do not exist, the elevation to which the lowest floor, including any basement and/or any crawlspace floors (whether finished or unfinished, dirt, or other materials), is placed must be determined as follows:

1. 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;
2. for rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are 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 the effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Statewide Floodplain Management Rules parts 6120.5000 to 6120.6200. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.
3. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this section 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.

Section 507.2. Stairways, Sidewalks, Lifts and Landings

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. No permit shall be required. Stairways, sidewalks, lifts and landings must meet the following design requirements:

1. Stairways, sidewalks and lifts must not exceed four feet in width on residential lots. Wider stairways and sidewalks may be used for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be allowed for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
3. Canopies or roofs are not allowed on stairways, sidewalks, lifts, or landings;
4. Stairways, sidewalks, lifts or landings may be either constructed above the ground on posts or pilings, or placed into the ground provided they are designed and built in a manner that ensures control of soil erosion;
5. All construction of stairways, sidewalks, lifts or landings must be done with environmentally friendly materials;

6. Lifts require a land use permit and pre-permit site inspection by the Environmental Services Department. If erosion is occurring on an existing access path, then the erosion problem on the path must be restored as a condition of the permit. An existing access path whose use will be discontinued upon installation of the lift must be fully revegetated and restored as a condition of the lift permit.
7. Stairways, sidewalks, lifts or landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public waters assuming summer, leaf-on conditions, whenever practical; and
8. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that they fully comply with the dimensional and performance standards of this section, and the requirements of the State Building Code, Minnesota Rules, Chapter 1341.
9. Only one stairway, sidewalk, or lift to provide access between a waterbody and the location of a dwelling unit or units per the applicable minimum lot width standard found in Article V of this Ordinance is allowed to be located on a lot. Lots with nonconforming widths are allowed one such stairway, sidewalk, or lift.

Section 507.3 Boardwalks

Boardwalks are the required method for achieving access to shore areas across delineated wetlands. Earthen fill strips must be authorized by a variance application to the Board of Adjustment and must comply with the Minnesota Wetland Conservation Act. Boardwalks must meet the following design requirements:

1. Boardwalks must not exceed four feet in width on residential lots. Wider boardwalks may be used for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
2. Landings for boardwalks on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be allowed for commercial properties, public open-space recreational properties, and planned unit developments if specifically authorized in a conditional use permit;
3. Canopies or roofs are not allowed on boardwalks or landings;
4. Boardwalks must be constructed above the ground on posts or pilings so that sunlight is able to reach all of the area beneath the boardwalk such that existing vegetation below the boardwalk is not harmed by the boardwalk's installation;
5. Boardwalks should be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public waters assuming summer, leaf-on conditions, whenever practical; and
6. Environmentally friendly and federal/state-approved building materials must be used in construction of boardwalks across wetlands.

Section 507.4. Fences

Fences must meet the following design criteria:

1. All fences shall be entirely located upon the property of the party constructing or causing the construction of such a fence.
2. Fences eight feet in height and lower do not require a permit and do not have to meet structure setback requirements. They may be placed up to the more restrictive of either a property line or road right-of-way boundary.
3. Fences in the area between the ordinary high water mark and structure setback can be no more than four (4) feet in height above pre-existing or natural grade.
4. No fence shall be constructed so as to create a hazard for traffic on adjacent roads or obstruct the view for drivers exiting a driveway.
5. Construction of fences shall conform to all other applicable local, state, and federal laws.
6. **Exemption.** Fences normally associated with agricultural operations such as barbed wire fencing and snow fencing, fences surrounding home gardens, and driveway entrance markers shall be exempt from the requirements of this Ordinance.

Section 508. Significant Historic Sites

No structure may be placed on an identified 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.

Section 509. Steep Slopes

The Environmental Services Department will evaluate to the extent possible soil erosion impacts and development visibility from public waters before issuing a permit for the construction of sewage treatment systems, shoreland alterations for roads and 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 conditions.

Section 510. Temporary Structures

1. Temporary structures must meet all structure setback requirements of this Ordinance.
2. A temporary structure located on a lot for more than 120 consecutive days shall be considered a permanent structure and must have a land use permit pursuant to Section 1104 of this Ordinance.

Section 511. Recreational Vehicles.

1. Recreational vehicles must meet all structure setback requirements of this Ordinance.

2. A recreational vehicle when used as a dwelling unit and located on a lot for more than 30 days in any year and occupied at the location at any time shall be considered a dwelling unit and must have a land use permit pursuant to Section 1104 of this Ordinance.
3. Recreational vehicles must have self-contained sanitary facilities or comply with the sanitation standards of this Ordinance.
4. Only one recreational vehicle site shall be allowed on any lot. This shall not prohibit occasional and intermittent visitors.
5. The parking of uninhabited recreational vehicles for strictly storage purposes is allowed and in cases where a property owner can demonstrate through legal description, or plat, or a certified survey that there is insufficient depth on a lot to accommodate placement of a recreational vehicle per Section 502 of this ordinance, the Environmental Services Director may vary the setback administratively.
6. All tires necessary for safe highway transport must remain mounted on the recreational vehicle and inflated at all times.
7. Items 2, 4 and 5 of this Section do not apply to licensed recreational vehicle campgrounds.

Section 512. Geothermal Energy Systems

1. Installation of geothermal energy systems shall be allowed per the following requirements. No additional permitting shall be required if a current dwelling permit is in place and the following standards are met:
 - A. All parts of the system (except for a water discharge pipe on an open loop geothermal energy system) must be located behind the required structure setback from the ordinary high water mark.
 - B. If a current dwelling permit is in place, no additional permit shall be required. Parts of the system can be located in the area between the ordinary high water mark and structure setback if the following conditions are met:
 1. The installation of the system parts complies with Section 902 of this Ordinance.
 2. The structure serviced by the system is a legal nonconformity in terms of its ordinary high water mark structure setback.
 - C. Any geothermal system discharging into the shoreland area governed by this ordinance must only use water supplied from sources approved by the Minnesota Department of Health for drinking water purposes.
 - D. No water or liquid from a geothermal energy system can be discharged in a manner that causes the water or liquid to run over the ground surface toward public waters.

Article VI

Accessory Uses and Structures

Section 601. Accessory Uses and Structures

Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication in this or any other ordinance. The following special rules are applicable:

1. All accessory structures, including carports and breezeways, attached to the principal structure on a lot shall be made structurally a part thereof and shall comply in all respects with the requirements of the Ordinance applicable to the principal structure.
2. All detached accessory structures shall be located in compliance with all setback requirements applicable to the principal structure within the management district with the exception of storage structures as described in Paragraph # 3 below.
3. Each residential lot may have one water-oriented accessory structure, deck, or platform located closer to public waters than the structure setback if all of the following standards and requirements are met:
 - A. The structure must not exceed ten feet in height above grade at any point. A deck cannot exceed eight feet in height above grade at any point. The structure cannot occupy an area greater than 48 square feet and a deck or platform cannot occupy an area greater than 150 square feet.
 - B. The setback of the structure, deck, or platform from the ordinary high water level must be at least twenty feet.
 - C. The structure, deck, or platform must be earthtone in color and screened with vegetation to reduce visibility as viewed from public waters and adjacent shorelands.
 - D. The structure, deck, or platform must not be located in a bluff impact zone.
 - E. A structure's roof cannot be used as a deck or storage area.
 - F. The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
 - G. Where grading or filling or excavation is necessary for construction, a shoreland alteration permit shall be required and there shall be no excavation waterward of the building line.
 - H. Mitigation to offset the aesthetic and impervious surface area impact of the allowed WOAS/deck/platform is required unless Environmental Services Department (ESD) staff determine the property's shore impact zone (SIZ) is fully vegetated in native tree, shrub, and ground cover aside from any allowed access path, SRUA, and WOAS/deck/platform. IF ESD staff determine the SIZ is fully vegetated, a 500 sq. ft. portion thereof (with a minimum width of 20' parallel to the shoreline) will be designated as an area to be permanently kept in natural vegetative cover. If ESD staff determine

the property's SIZ is not fully naturally vegetated, 500 sq. ft. of the property's SIZ must be restored to and maintained in permanent native tree, shrub, and ground cover vegetation. If less than 500 sq. ft. of the SIZ requires restoration, then permanent restoration of said area that is less than 500 sq. ft. and preservation of it and additional shore impact zone area to reach the 500 sq. ft. amount will satisfy this mitigation requirement. In all the above scenarios, the 500 sq. ft. area must have a 20' minimum width parallel to the shoreline.

- I. Any structure or facility not meeting the above criteria, or any additional accessory structures or facilities must meet or exceed structure setback standards.
4. Piers and docks are allowed, but shall be controlled by applicable State and local regulations.

Article VII

Nonconformities and Nonconforming Lots of Record

All legally established nonconformities existing as of the date of enactment of this Ordinance may continue provided that they are managed in accordance with applicable state statutes and the following standards. No nonconformity can be expanded, extended, or enlarged except as set forth in this Article.

Section 701. Nonconforming Uses

Any use legally established as of the effective date of this Ordinance which is not in conformity with the regulations contained in this Ordinance shall be considered a nonconforming use. A nonconforming use may be allowed to continue subject to the following conditions:

- A. No nonconforming use shall be expanded, enlarged, or altered, including any increase in volume, intensity, or frequency of use of the property where a nonconforming use exists. Structural alterations, expansions, and additions to a structure devoted in whole or part to a nonconforming use are prohibited as is the creation of a new structure where none previously existed.
- B. A change from one nonconforming use to another nonconforming use is prohibited.
- C. A nonconforming use of a parcel of land may not be extended to cover more land than was occupied by that use when it became nonconforming.
- D. A nonconforming use shall not be moved to any other part of the property on which it is located or to another property where it would still constitute a nonconforming use.
- E. A lawful, nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming use has been so changed, it shall not thereafter be so altered to increase the nonconformity.
- F. If a nonconforming use is replaced by a permitted use, the nonconforming status and any rights that arise under the provisions of this section of the Ordinance are terminated.
- G. A nonconforming use that has been discontinued for a period of twelve consecutive months shall not be re-established, and any further use shall be in conformity with this Ordinance. Time will be calculated as beginning on the day following the last day in which the use was in normal operation and will run continuously thereafter.
- H. If a structure used for a nonconforming use is damaged to the extent that the cost of replacement, reconstruction, or restoration would exceed 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, then the damaged structure shall not be replaced, reconstructed, or restored except in conformity with this Ordinance.

Section 702. Nonconforming Structures

Any structure legally established as of the effective date of this Ordinance which is not in conformity with the regulation contained in this Ordinance is a nonconforming structure and may

be allowed to continue including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except in conformity with the following conditions:

- A. No nonconforming structure shall be expanded, enlarged, or intensified without first obtaining a variance unless each of the following conditions can be met:
 - 1. The expansion, enlargement or intensification does not further increase the nonconformity or violate any other standards of this Ordinance other than regulation(s) that made the structure nonconforming in the first place.
 - 2. An onsite sewage treatment system can be installed in accordance with Hubbard County Subsurface Sewage Treatment System Ordinance No. 41 or the nonconforming structure is connected to a public sewer.
 - 3. The structure is located outside of a shore impact zone or bluff impact zone.
 - 4. Should such structure be moved for any reason for any distance whatsoever other than in a manner that brings the structure more into compliance with this Ordinance, it shall thereafter conform to this Ordinance in its entirety after the structure is moved.

- B. A nonconforming structure that has been damaged by fire, explosion, natural disaster, or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, shall not be replaced, reconstructed, restored, expanded, enlarged, or intensified except in conformity with this Ordinance with the exception that homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes may be continued including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, if a land use permit has been applied for within 180 days of when the property was damaged. The Department may impose reasonable conditions on the land use permit in order to mitigate any newly created impact on an adjacent property or water body.

When dealing with such homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes, for which a permit has been applied for within 180 days of when the property was damaged, if a nonconforming structure, which is located less than 50 percent of the required setback from the ordinary high water mark, has been damaged by fire, explosion, natural disaster, or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the Department may require an increased setback from the ordinary high water mark, if practicable and reasonable conditions are placed on the land use permit, to mitigate created impacts on the adjacent property or water body.

- C. Normal maintenance of a nonconforming structure including nonstructural maintenance and repair is allowed.

- D. Any construction project for which a valid land use permit was granted before the effective date of this Ordinance may be completed although the structure would not meet newly established standards of this Ordinance.

Section 703. Deck and Platform Additions

1. A deck or platform that does not meet setback requirements from public waters may be allowed without a variance to be added to dwelling unit structures existing on the date the shoreland structure setbacks were established by ordinance on July 12, 1971, if all of the following criteria and standards are met:
 - A. a thorough evaluation of the property and structure by the Environmental Services Department reveals no reasonable location for a deck or platform meeting or exceeding the existing ordinary high water level setback of the structure;
 - B. the deck or platform encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the principal residential dwelling from the ordinary high water level, or does not encroach closer than thirty (30) feet, whichever is more restrictive.
 - C. the deck or platform is constructed of environmentally friendly materials, and the deck or platform is not roofed or screened;
 - D. Only one deck or platform per this Section is allowed for a dwelling unit on a lot.
 - E. The deck or platform must not be located in a bluff impact zone.

Section 704. Nonconforming Lots of Record

1. All lots or tracts, the plat or deed to which has been recorded in the Office of the County Recorder on or before the effective date of this Ordinance shall be considered a lot of record. Any such unimproved lot or tract may be used for the legal use for which it is zoned subject to the following conditions:
 - A. the use is permitted in the shoreland district;
 - B. the lot has been in separate ownership from abutting lands at all times since it became substandard;
 - C. the lot was created compliant with official controls in effect at that time;
 - D. the applicable setback requirements of this Ordinance are met;
 - E. the lot contains a minimum contiguous lawn area, that is free of limiting factors, sufficient for the construction of two standard onsite sewage treatment systems;
 - F. The lot contains an adequate supply of water for domestic purposes that meets or exceeds standards of the Minnesota Department of Health.
 - G. maximum impervious surface coverage shall be less than 25%; and
 - H. the following lot width standards are met:
 1. For Natural Environment Lakes a minimum of 150 feet in width.
 2. For Recreational Development Lakes a minimum of 100 feet in width.

3. For General Development Lakes, River Segments and Tributaries a minimum of 75 feet in width.
2. In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development if it meets the following requirements:
 - A. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, Chapter 6120.
 - B. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type I subsurface sewage treatment system in accordance with Hubbard County Subsurface Sewage Treatment System Ordinance No. 41.
 - C. Impervious surface coverage must not exceed 25 percent of each lot.
 - D. Development of the lot must be consistent with the intent, purpose, and objectives of this Ordinance and the Hubbard County Comprehensive Land Use Plan.
3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 704, Item 2 of this Ordinance, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so that they equal one or more parcels of land, each meeting the lot area and lot width requirements of Section 501 of this Ordinance as much as possible.
4. Contiguous nonconforming lots of record under a common ownership must be able to be sold or purchased individually if each lot met the "improved lot" definition in Section 111 of this Ordinance at the time the lots came under common ownership and the lots are suitable for, or served by, a subsurface sewage treatment system consistent with Hubbard County Subsurface Sewage Treatment System Ordinance No. 41 or connected to a public sewer.
5. Development on lots which do not meet the development standards detailed in this Section must be authorized by a variance pursuant to Article XI of this Ordinance. 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.
6. In evaluating all variances, zoning and land use permit applications, or interim or conditional use permit applications, the County shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.
7. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Section 705. Failing Sewage Treatment Systems

A sewage treatment system that does not meet the requirements specified in Article VIII of this Ordinance must be upgraded, at a minimum, at any time that a permit or variance of any type is required for any improvement on, or use of, the property.

The Hubbard County Board of Commissioners has, by formal resolution, notified the Commissioner of its program to identify failing sewage treatment systems. Hubbard County will require upgrading or replacement of any failing system identified through this program within the applicable time period specified in Article IV, Section 2.01, Failure to Protect Groundwater, in the Hubbard County Subsurface Sewage Treatment System Ordinance. In addition, a system will be required to be upgraded to conform in entirety with all technical standards and criteria of Minnesota Rules, Chapters 7080-7083 when additional bedrooms or water using appliances are added to a dwelling.

Article VIII Sanitation Standards

Section 801. Sewage Treatment Standards

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

1. Publicly-owned sewer systems must be used where available.
2. All private subsurface sewage treatment systems must meet or exceed all provisions of the Hubbard County Subsurface Sewage Treatment System Ordinance (SSTSO) and the current edition of the Minnesota Rules, Chapters 7080-7083 in all respects. In all instances where the provisions of this Ordinance are stricter than the SSTSO or Chapters 7080-7083, this Ordinance shall prevail.
3. Subsurface sewage treatment system's soil absorption area must be set back from the ordinary high water level in accordance with the minimum standards specified in Section 502 of this Ordinance. In cases where a property owner can demonstrate through one or more of the following: legal description, plat, certified survey, or a wetland delineation report that there is insufficient depth or area on a lot to accommodate placement of a drainfield per Section 502 of this ordinance, the Environmental Services Director may vary the setback administratively on recreational development and general development lakes, and forested and tributary rivers, but in no case shall the setback be less than 75 feet on Recreational Development lakes, 50 feet on General Development lakes, 100 feet on Forested Rivers, and 75 feet on Tributary Rivers.
4. Subsurface sewage treatment systems must be setback from the side lot line and rear lot line in accordance with the minimum standards specified in Section 502 of this Ordinance. In cases where no feasible alternative exists and a written statement signed by all adjacent property owners attests to the location of the property line or a certified survey establishes the property line, the Environmental Services Director may allow a lesser setback administratively.
- 5.. Privies shall be set back from the surface waters, property lines and water supply wells, the same distance as required for soil treatment areas. Where the structure setback exceeds the soil treatment system setback, the structure setback shall prevail.
6. Accessory structures are allowed to be connected to a septic system provided that: 1. the septic connection will comply with all pertinent regulations in this Ordinance, and 2. the system will comply with current sizing requirements, the Subsurface Sewage Treatment System Ordinance, and Minnesota Rules, Chapters 7080-7083.

Section 802. Sewage Treatment Permit Requirements

1. No person, (except as described in Section 802.2) firm or corporation shall install, alter, repair or extend any subsurface sewage treatment system without first obtaining a license from the MPCA, and until a permit has been issued from the Hubbard County Environmental Services Department for the specific installation, alteration, repair or extension to be performed.

2. An individual may install, alter, repair or extend a subsurface sewage treatment system on land that is solely owned or leased by the individual and functions solely as a dwelling or seasonal dwelling for that individual. The individual must first consult with a licensed septic system designer to submit the required site evaluation and design forms, and then obtain a sanitary permit.

Section 803. Water Supply Standards

All public or private supplies of water for domestic purposes must meet or exceed the standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. All wells must be located, constructed, maintained and sealed in accordance with the Well Water Construction Code of the Minnesota Department of Health.

Section 804. Agricultural Waste Disposal

Any agricultural waste disposal operation in shoreland areas must conform to the standards, criteria, rules and regulations of the Minnesota Pollution Control Agency.

Article IX

General Shoreland Requirements

Section 901. Vegetative Alterations

Removal or alteration of vegetation, except for agricultural and forest management uses as regulated by Sections 906 and 907 of this Ordinance, is allowed subject to the following standards:

1. Intensive vegetative clearing within the shore and bluff impact zones and on steep slopes is not allowed except for access paths, stairways, sidewalks, lifts, landings, water-oriented accessory structures/decks/platforms per Section 601.3 of this Ordinance and shoreline recreation use areas as stated in this Section. Intensive vegetative clearing for forest land conversion to another use outside of these areas is a conditional use provided an erosion control and sedimentation plan is developed and approved by the Hubbard County Soil and Water Conservation District in cooperation with the Natural Resources Conservation Service.
2. In shore and bluff impact zones and on steep slopes, only limited clearing of trees and shrubs is allowed to provide a view to the water from the principal dwelling site and intensive vegetative clearing is allowed to accommodate the placement of stairways, sidewalks, lifts and landings, access paths, water-oriented accessory structures/decks/platforms per Section 601.3 of the Ordinance, and shoreline recreation use areas, provided that:
 - A. the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced so that the structures are at most 50 percent visible from public waters during summer, leaf-on conditions;
 - B. along rivers, existing shading of water surfaces is preserved;
 - C. A ground layer and understory of native vegetation is preserved, maintained, or established in this area. Allowed exceptions from this requirement are stairways, sidewalks, lifts, and landings as specified in Section 507.2 of this Ordinance and water-oriented accessory structures/decks/platforms as specified in Section 601.3 of this Ordinance;
 - D. The removal of exotic species such as European Buckthorn or Purple Loosestrife or noxious species such as Poison Ivy or Prickly Ash is permitted.
 - E. Access paths shall be no wider than six (6) feet and must be oriented generally perpendicular to the shoreline except in cases where steep slopes or bluff impact zones require generally non-perpendicular to the shoreline designs per consultation with the Environmental Services Department. No more than one access path per up to 200 feet of lot width as measured at the ordinary high water mark is allowed.;
 - F. Stairways, sidewalks, lifts, and landings must be located within the six (6) feet width allowed in Item E above for access paths;

- G. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards; and
- H. Only one shoreline recreation use area shall be allowed on each residential lot and it shall not exceed the following dimensions:

Class or District (the maximum distance in feet parallel to shore)	Width	Depth (the maximum distance in feet perpendicular to shore)
Special Protection	10	15
Sensitive Area	10	15
Natural Environment	10	15
Recreational Development	20	15
General Development	30	15
Remote River segments	10	15
Forested and transition river segments	20	15
Agricultural, urban, and tributary river segments	30	15

A perennial ground cover shall be maintained to prevent erosion on all shoreline recreation use areas.

- 3. Removal of trees and shrubs within the remaining portion of the structure setback area is allowed, provided that a well-distributed stand of trees and shrubs are maintained. A well-distributed stand of trees and shrubs means that a tree and shrub canopy covers at least 50% of the area. A ground layer of predominantly perennial vegetation, such as grass, flowers, forbs, or preferably native plants, shall be preserved, established or maintained in this area.
- 4. Vegetative alterations necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 903 of this Ordinance are exempt from the vegetative alteration standards prescribed in this Section.
- 5. 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 and shall be consistent with best management practices for shorelands.

Section 902. Topographic Alterations/Grading and Filling

- 1. With some specified exceptions, the following requirements govern when a grading and filling permit will be required:

On steep slopes or within shore impact zones:

- A. up to five cubic yards of material may be moved per year without need of a permit;
- B. five to ten cubic yards of material per 150' of shoreline may be moved per project by permit;

- C. movement of material exceeding these amounts must be authorized by a variance pursuant to Article XI of this Ordinance.

In the area between the shore impact zone and the structure setback line and outside of steep slopes or shore or bluff impact zones:

- A. up to ten cubic yards of material may be moved per year without need of a permit;
- B. ten to 50 cubic yards of material per 150' of lot width may be moved per project by permit;
- C. movement of material exceeding these amounts must be authorized by a variance pursuant to Article XI of this Ordinance.

Landward of the structure setback line and outside of steep slopes and bluff impact zones:

- A. any amount of material may be moved per project without need of a permit or variance so long as the Ordinance's erosion control measures stated in Sections 901 and 902 are implemented and followed.
2. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued land use permits for these facilities do not require the issuance of a separate grading and filling permit providing that no excavation is to take place in front of the required setback distance save standard construction practices and providing fill is not required to bring the lowest floor three feet above the seasonal high water table. This Item also includes up to four (4) inches in depth of earthen material needed to reestablish vegetation within a twenty (20) foot perimeter of the permitted structure(s) and also over solely the immediate top of a permitted sewage treatment system. However, the grading and filling standards prescribed in paragraph 5 of this section must be incorporated into the issuance of permits for the construction of structures, sewage treatment systems, and driveways. Any further grading, filling, and excavations deemed necessary beyond that outlined in this Item must follow the regulations stated in Item 1 above.
 3. Public roads and parking areas must meet the requirements prescribed in Section 903 of this Ordinance.
 4. Property owners may repair damage to a shoreline from a single season of ice damage that occurred within the last twelve months when the ice ridge had been legally altered in prior years providing such work is reported to the Environmental Services Department. Alteration of any portion of an ice ridge in all other circumstances must be authorized by a variance pursuant to Article XI of this Ordinance.
 5. The following considerations and conditions must be adhered to for the issuance of land use permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
 - A. grading and 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 functional qualities of the wetland, including: sediment and pollutant trapping and retention; storage of surface runoff to prevent or reduce flood damage; fish and wildlife habitat;

recreational use; shoreline or bank stabilization; and noteworthiness, including special qualities such as historic significance, and critical habitat for endangered plants and animals. 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 Minnesota Department of Natural Resources, or the United States Army Corp of Engineers. The applicant is responsible for contacting the local government official administering the Minnesota Wetland Conservation Act.

- B. alterations must be conducted in a manner that ensures that only the smallest amount of bare ground is exposed for the shortest time possible, and shall in no case exceed one year from the date the permit is issued.
 - C. mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetative 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 Natural Resources 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 thirty (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 first be authorized by the Commissioner of Natural Resources under Minnesota Statutes, Section 103G;
 - 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; and
 - K. placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, may be allowed by permit 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, the height of the riprap above the ordinary high water level does not exceed three feet, and the Environmental Services Office determines the shoreline has a legitimate erosion problem.
6. Excavating where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, requires a conditional use permit from the Office of Environmental Services. Such conditional use permit shall only be granted after the Commissioner of Natural Resources has approved the proposed connection to public waters.

7. Whether federal, state or local regulation, the strictest provisions shall prevail.

Section 903. 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 and minimize and control erosion to public waters consistent with the technical guides of the Natural Resources Conservation Service or other technical materials.
2. Public watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided that the vegetative screening and erosion control conditions of this Section are met and a conditional use permit is obtained per Section 401 of this Ordinance. Private watercraft approach roads and access ramps must be approved by a variance from the Board of Adjustment and must meet the vegetative screening and erosion control conditions of this section.
3. Roads, driveways, and parking areas must meet structure setbacks except for the 10 foot rear lot line structure setback. In cases where preliminary plats are being processed and the local road authority, Planning Commission, or County Board recommends shared approaches and driveways or a recorded ingress and egress easement specifically describes the easement location and boundaries, the 10 foot side lot line setback may be waived.

Section 904. Stormwater Management Standards

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.
4. When constructed facilities are used for stormwater management, they must be designed and installed consistent with the field office technical guide of the Natural Resources Conservation Service.
5. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
6. Impervious surface coverage of lots must not exceed 25 percent of the lot area.

Section 905. Special Provisions for Commercial, Industrial, Public and Semipublic Uses

1. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
 - A. in addition to meeting impervious coverage limits, setbacks and other dimensional provisions of this ordinance, 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 of navigation and to be the minimum size necessary to meet the need; and,
 - C. 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 Hubbard 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 the location and name of the establishment and the general type 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 lighting, such lights shall be shielded or directed to prevent illumination out across public waters; and
 - (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 section does not preclude the use of navigational lighting.
2. Uses without water-oriented needs must be located on lots or parcels without public water frontage. If located on lots with public water frontage, such uses must either be set back double the normal setback from the ordinary high water level or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

Section 906. Special Provisions for Agricultural Uses

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 a conservation plan approved by the Hubbard County Soil and Water Conservation District and consistent with the field office technical guides of the Natural Resources Conservation Service, as provided by a qualified agency individual. 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 or half of the structure setback from the ordinary high water level within the particular management district, whichever is greater.

2. Conversion of land from a non-agricultural use to use as pasture or cropland is permitted in all shoreland management districts surrounding lakes, provided that such conversions shall maintain a buffer of five hundred (500) feet from public waters.
3. Horsebarns, stables and barns for livestock must be setback a minimum of five hundred (500) feet from the ordinary high water mark of public waters.
4. New animal feedlots shall not be allowed within shoreland areas.
5. Agricultural practices and associated uses must be conducted consistent with the provisions of Agriculture and Water Quality "Best Management Practices for Minnesota".
6. Incidental agricultural uses such as raising chickens or a milking cow that comply with the Ordinance's accessory use definition involving up to three animal units (as defined by the Minnesota Pollution Control Agency feedlot rules) are allowed and not subject to Section 906.. Accompanying structures used to shelter/house items or animals related to such incidental use are not subject to Section 906 and are allowed by permit.

Section 907. Special Provisions for Forest Management

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment – Forestry, the provisions of Water Quality in Forest Management "Best Management Practices for Minnesota" and with the following standards:

1. 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.
2. 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.

Section 908. Special Provisions for Extractive Uses

1. 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. The plan 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. Processing machinery must be located consistent with setback standards for structures from the ordinary high water level of public waters and from bluffs.
3. Mining of metallic minerals and peat, as defined in Minnesota Statutes, Section 93.44 to 93.51, shall be a permitted use provided the provisions of the specified Sections of Minnesota Statute are satisfied.

Article X Subdivisions and Planned Unit Developments

Section 1001. Applicability

No subdivision of a lot, tract or parcel into two or more lots, and no planned unit development may be established, except in compliance with this Ordinance and the Hubbard County Subdivision Ordinance.

Section 1002. Land Suitability

1. Each lot created through the subdivision process, including planned unit developments authorized under the provisions of this Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by Hubbard County will consider susceptibility to flooding, existence of wetlands, unique hydrological conditions 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 or of Hubbard County.
2. Sufficient information must be submitted by the applicant to enable Hubbard County to make a determination of land suitability. The information shall include at least the following:
 - A. topographic contours at two foot intervals from United States Geological Survey (USGS) maps or more accurate sources, showing limiting site characteristics;
 - B. the surface water features required by Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from the United States Geological Survey quadrangle topographic maps or more accurate sources;
 - C. adequate soils information to determine suitability for building and on-site sewage capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - D. information regarding location of domestic water supply;
 - E. extent of vegetation and topographic alterations;
 - F. proposed methods for controlling stormwater runoff and erosion both during, and after, construction activities;
 - G. location of 100 year floodplain areas and floodway districts from existing adopted maps or data;
 - H. a line or contour representing the ordinary high water level, the extent of the bluff impact zone, the minimum building setback distances from the top of bluff, and from the public waters, and the minimum drainfield setbacks; and

- I. near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation.
3. The Hubbard County Board of Commissioners or its designee (Environmental Services Director) shall make its decision, in writing, specifying the facts upon which the suitability determination is made. If a determination is made that the land is not suitable for development the applicant will be notified, in writing, regarding the particular facts leading to such determination. The applicant will be afforded the opportunity to appeal such determination in accordance with the procedure for appeal specified in Article XI of this Ordinance.

Section 1003. Consistency with other Controls

Subdivisions, and any newly created lots must conform to all of the official controls prescribed in this Ordinance and the Hubbard County Subdivision Ordinance. A subdivision will not be approved where a variance from the official controls will later be needed in order to use a lot as a single family residential dwelling unit lot. A subdivision will not be approved unless domestic water supply is available and a sewage treatment system in full compliance with Section 801 of this Ordinance can be provided for every lot. Each lot in a subdivision shall meet the minimum lot size and dimensional requirements prescribed in Article V of this Ordinance. Each lot shall also include a minimum contiguous lawn area that is free of limiting factors, sufficient for the construction of two standard sewage treatment systems. Subdivisions which include lots that would require septic system holding tanks shall not be approved.

Section 1004. Dedications

On newly created lots or within the boundaries of a subdivision, the County Board of Commissioners may require any or all of the following:

1. That suitable sites within a subdivision be dedicated or reserved for future public use such as: parks, public access or open space as needed by the particular subdivision.
2. That easements for drainage ways of widths sufficient to accommodate anticipated storm water runoff be provided.
3. That easements for public utilities be provided.

Section 1005. Lot Size

1. Newly created lots shall be of size and shape to satisfy all requirements of Article V of this Ordinance with the exception that units within a residential planned unit development can be smaller than the minimum lot size standards shown in said Article V.
2. The shape of individual lots may render parts unusable for the installation of private sewage disposal systems or to provide adequate separation distance between them and watercourses or water wells. Therefore, any portion of a lot that is less than thirty (30) feet in width shall not be used in computing the minimum lot area.

Section 1006. Storm Drainage

Storm drainage facilities, where required, shall be designed to permit the unimpeded flow of

natural watercourses, insure the drainage of all points along the line of streets, and provide positive drainage away from on-site sewage disposal facilities. In designing storm drainage facilities, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and the prevention of excess runoff onto adjacent property.

Section 1007. Water Supply Facilities

Where there is an existing public water supply system on or near the proposed subdivision, the County Board, along with the local municipality, shall determine the feasibility of service and the requirements to be followed by the subdivider in connecting to the system. Where there is no public water supply system, individual water supply systems will be permitted in accordance with Minnesota Department of Health standards for water quality. Such water supply systems must be located in accordance with Minnesota Department of Health standards and the requirements of this Ordinance.

Section 1008. Sanitary Sewerage

1. In areas having a public sanitary sewer system on or near the proposed subdivision, the County Board, along with the local municipality, will determine the feasibility of service and the requirements to be followed by the subdivider in connecting to the system.
2. In areas not served by a public sewer system, on-site sewage treatment systems will be allowed provided that all requirements of the Minnesota Pollution Control Agency "Subsurface Sewage Treatment System Standards", Chapters 7080-7083, and appendices, are met.
3. Sewage treatment systems shall be constructed to meet the requirements of the Minnesota Pollution Control Agency, and shall meet the standards prescribed in Article V and Article VIII of this Ordinance as well as the Hubbard County Subsurface Sewage Treatment System Ordinance.

Section 1009. Platting Requirement

No land platted under the jurisdiction of this Ordinance may be recorded or sold until the subdivision process described in this Article and the Hubbard County Subdivision Ordinance is completed.

Section 1010. Planned Unit Development Review

Planned unit developments (PUDs) are allowed as conditional uses for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land in those management districts where specifically identified in Article IV. Planned unit developments shall be processed as a conditional use. The Hubbard County Board of Commissioners may require special studies or environmental review reports (Environmental Assessment Worksheet [EAW]/Environmental Impact Statement [EIS]) and the developer shall be responsible for the costs of preparing such with the County Board of Commissioners having the authority to charge back costs to the developer. Approval shall not occur until the environmental review process (EAW/EIS) has been completed, as required by Minnesota Environmental Quality Board rules.

An applicant for a PUD shall submit the following documents as part of the required conditional

use permit application:

1. A site plan and/or plat for the project showing: the boundary of the proposed development; surface water features and other natural and man-made features; existing and proposed structures and other facilities, proposed land alterations; the location of existing and proposed sewage treatment and water supply systems; and topographic contours at a minimum of ten-foot intervals.
2. For residential planned unit developments, a property owners association agreement with mandatory membership, all in accordance with the maintenance and administrative requirements prescribed in Section 1014 of this Ordinance.
3. Deed restrictions, covenants, permanent easements or other instruments that:
 - A. properly address future vegetative and topographic alterations; construction of additional buildings; and beaching of watercraft; and,
 - B. ensures the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in the maintenance and administrative requirements of this Section.
4. For commercial planned unit developments, a master plan/drawing describing the proposed project and the floor plan for all commercial structures to be occupied.
5. Any additional documents as requested by Hubbard County that are necessary to explain how the PUD will be designed and function.

Section 1011. PUD Site Suitability Evaluation

Proposed new, or expansions to existing, planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site evaluation described in Section 1014.

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

A.	General Development lakes - first tier	200 ft.
B.	General Development lakes - other tiers	267 ft.
C.	Recreational Development lakes	267 ft.
D.	Natural Environment lakes	400 ft.
E.	Rivers and Tributaries	300 ft.
2. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluff impact zones, easements, road right-of-ways, and land below the ordinary high water level of public waters. This suitable area and the proposed development are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites within each tier.

Section 1012. Residential and Commercial PUD Density Evaluation

The procedures for determining the allowable density of residential and commercial planned unit developments are as follows. Allowable densities may be transferred from a tier to any other tier farther from the public water, but shall not be transferred to any tier closer to the public water.

1. To determine the allowable density for Residential Planned Unit Developments:
 - A. the suitable area within each tier is divided by the single residential lot size standard (i.e. lot area, buildable area, and lot width) for the applicable management district to determine the number of single family residential dwelling lots that could be created in the suitable area.
 - B. proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the maintenance and design criteria prescribed in Section 1013.
2. To determine the allowable density for Commercial Planned Unit Developments:
 - A. the average inside living area size of dwelling units or sites is computed. Computation of inside living area need not include decks, patios, stoops, steps, garages, porches or basements unless such areas are habitable space;
 - B. the appropriate floor area ratio is then selected from the following table based upon the average unit floor area for the appropriate public water classification;
 - C. the suitable area within each tier is multiplied by the floor area ratio to yield the total floor area in each tier allowed to be used for dwelling units or sites;
 - D. the total floor area for each tier is divided by the average living area size to yield the number of dwelling units or sites allowed for each tier;
 - E. proposed locations and numbers of dwelling units or sites for the commercial planned unit developments are then compared with the tier, density and suitability analyses herein and the maintenance and design criteria prescribed in Section 1013.

**Commercial Planned Unit Development*
Floor Area Ratio by Public Waters Classification**

Average Unit Floor Area (sq. ft.)	GD Lakes (1st Tier) Tributaries	GD Lakes (except 1st Tier), RD Lakes, Forested <u>River Segments</u>	NE Lakes, Special Protection River Segments, Remote River Segments
200 or less	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500 or more	.150	.075	.038

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

Section 1013. PUD Maintenance and Design Criteria

1. Before final approval of a planned unit development may be granted, adequate provisions must be developed for the preservation and maintenance of open spaces in perpetuity, and for the continued existence and functioning of the development.
2. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
 - A. commercial uses shall be prohibited in residential planned unit developments;
 - B. vegetative and topographic alterations, except for routine maintenance, shall be prohibited;
 - C. construction of additional buildings or the storage of vehicles and/or other materials is prohibited;

- D. uncontrolled beaching of watercraft shall be prohibited.
3. All residential planned unit developments must contain at least five dwelling units or sites.
 4. All residential planned unit developments must have a property owners association with the following features:
 - A. membership shall be mandatory for each dwelling unit or site owner;
 - B. each member must pay a pro-rata share of the expenses of the association, and unpaid assessments may become liens on units or sites;
 - C. assessments must be adjustable to accommodate changing conditions; and
 - D. the association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
 5. All planned unit developments must contain open space meeting all of the following criteria:
 - A. at least 50 percent of the total project area must be preserved as open space;
 - B. dwelling units or sites, road rights-of-way, land covered by road surfaces, parking areas, and structures are developed areas and shall not be included in the computation of open space;
 - C. open space must include those areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - D. open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
 - E. open space may include subsurface sewage treatment systems provided the use of the space is restricted to avoid adverse impacts on such systems;
 - F. open space must not include commercial facilities or uses,
 - G. the appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
 - H. the shore impact zone, based upon normal structure setbacks, must be included as open space. For residential planned unit developments, at least 50 percent of the shore impact zone of existing developments and at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial planned unit developments, at least 50 percent of the shore impact zone must be preserved in its natural state.
 6. Erosion control and stormwater management plans must be developed and the PUD must:

- A. be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetative buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by the Hubbard Soil and Water Conservation District (assisted by the Natural Resources Conservation Service) may be required if warranted by project size and/or the physical characteristics of the site;
 - B. be designed and constructed to effectively manage reasonably expected quantities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial planned unit developments 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan consistent with Section 904 of this Ordinance.
7. Centralization and design of facilities and structures must be done according to the following standards:
- A. planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Articles V and VIII of this Ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
 - B. dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the applicable shoreland classification: setback from the ordinary high water level; elevation above the surface water features; and maximum height;
 - C. shore recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas and launching ramps must be centralized and located in suitable areas. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor *for commercial PUDs only*). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
 - D. structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;
 - E. accessory structures and facilities must meet the required principal structure setback,

and must be centralized.

Section 1014. Conversions to PUDs

Resorts or other land uses and/or facilities may be converted to residential planned unit developments provided all of the following standards are met:

1. Proposed conversions must be initially evaluated using the same procedures as for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and the PUD standards shall be identified.
2. Deficiencies involving water supply and sewage treatment, structure color, impervious surface coverage, open space and shore recreation facilities must be corrected as part of the conversion, or as specified in the Conditional Use Permit.
3. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
 - A. removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - B. remedial measures to correct erosion sites and improve the vegetative cover and screening of buildings and other facilities as viewed from the water; and
 - C. if existing dwelling units are located in shore or bluff impact zones, conditions that preclude exterior expansions in any dimension or substantial alteration are attached to approvals of all conversions. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations meeting all setback and elevation requirements when they are rebuilt or replaced.
4. Existing dwelling unit or dwelling site densities that exceed standards prescribed in Section 1012 of this Ordinance may be allowed to continue but shall not be increased, either at the time of conversion or in the future. Efforts must be made during any such conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

Article XI Administration

Section 1101. Environmental Services Director

The position of Environmental Services Director is hereby established within the Environmental Services Department. The Environmental Services Director shall be appointed by the County Board of Commissioners. The Environmental Services Director shall receive such compensation as the County Board may, from time to time, determine. The Environmental Services Director shall:

1. Act as Inspector for the County;
2. Inspect all construction and development to ensure compliance with this ordinance's standards. All persons involved in land development activity shall allow free access to authorized representatives of the County at any reasonable time for the purposes of making such inspections as may be necessary to determine compliance with the Ordinance. Failure of such persons to allow an inspection shall be considered a violation of this Ordinance and the Environmental Services Director shall have the authority and responsibility to take appropriate legal actions, or to suspend review of a permit, or to revoke a permit;
3. Enforce and administer the provisions of this Ordinance;
4. Issue permits for permitted uses and/or activities which comply with the provisions of this Ordinance. Any permit issued on the basis of an application which is in error, whether the error is intentional or not, shall be null and void. No such permit may be construed as permission to build or begin a land use. It shall be the responsibility of the Environmental Services Director to notify the property owner upon discovery of an erroneous application;
5. Receive applications for conditional use permits and forward, along with staff reports, to the Planning Commission;
6. Receive applications for variance requests and forward, along with staff reports, to the Board of Adjustment;
7. Receive applications for zoning amendments and forward, along with staff reports, to the Planning Commission;
8. Maintain all records relating to the application for and deliberations relating to the issuance or denial of permits;
9. Develop and maintain a public information bureau relating to shoreland management;
10. Maintain the County Shoreland Management Map as described in Article II.

Section 1102. Planning Commission/Board of Adjustment (effective Jan. 1, 2014)

1. Authority

The County Board of Commissioners hereby creates the Planning Commission/Board of

Adjustment (PC/BOA) pursuant to Minnesota Statutes 394.21-394.37 and all acts amendatory thereof.

2. Duties

- a. Acting in its capacity as the Planning Commission, the PC/BOA is hereby designated by the County Board to:
 1. assist the County Board in the formulation of goals, policies and programs for the future development of Hubbard County;
 2. assist the County Board in the preparation of development controls designed to promote development consistent with adopted goals and policies;
 3. review applications for, conduct public hearings on in accordance with the provisions of this Ordinance, and make recommendations on conditional use permits and Ordinance amendments to the County Board;
 4. review subdivision proposals for compliance with the provisions of this Ordinance, conduct public hearings on them, and make recommendations on such proposals (including preliminary and final plats) to the County Board of Commissioners;
 5. perform any other such duties as required or requested by the County Board of Commissioners to further goals and policies in furtherance of the intent of this Ordinance and other County ordinances.
- b. Acting in its capacity as the Board of Adjustment, the PC/BOA is hereby designated by the County Board to have the exclusive authority to:
 1. order the issuance or denial of variances from the requirements of any official control, including restrictions placed on nonconformities.
 2. hear and decide any appeal from an order, requirement, decision, or determination made by Director an administrative official charged with enforcing any Ordinance adopted under the authority of Minnesota Statutes Chapter 394.
 3. interpret any management district boundary on the Official Shoreland Management Map and hear and decide any appeals of a denial of a land use permit by the County Environmental Services Department due to the land's location on any official map, as set forth in, and under the procedures of, Minnesota Statute Section 394.361.
- c. The PC/BOA shall have other such duties and authorities as are prescribed by proper ordinances of this County.

3. Membership

- a. The PC/BOA shall consist of five voting members and one non-voting ex-officio member (who will only serve on the Planning Commission.) Said ex-officio member shall be a member of the County Board of Commissioners.
- b. At least two voting members shall be residents of the portion of the County outside the

corporate limits of municipalities.

- c. No elected officer of the county or employee of the Hubbard County Board of Commissioners shall serve as a voting member of the PC/BOA.
- d. No member of the PC/BOA shall have received, during the two years prior to appointment, any substantial portion of income from business operations involving the development of land within the county for urban and urban related purposes.
- e. Questions of whether any particular issue or matter before the PC/BOA involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of all PC/BOA members (except the ex-officio PC member) , except the PC/BOA member being challenged.

4. Appointment/Terms

- a. The members of the PC/BOA shall be appointed by the County Board of Commissioners consistent with Minnesota Statute, Chapter 394.
- b. One (1) voting member shall reside in and be appointed from each county commissioner district. The county commissioner representing the district shall have the authority to recommend the member from said district to the County Board for consideration. A member appointment requires a majority vote of the County Board. The Hubbard County Board Chairperson shall appoint PC/BOA members on behalf of the County Board per the County Board's vote on said members.
- c. Each voting member of the PC/BOA shall be appointed for a term of four years except for the initial appointment terms as specified below. Appointments shall become effective at the first PC/BOA meeting in a calendar year.

Commissioner District 1 - one (1) member with term ending December 31, 2015.

Commissioner District 2 - one (1) member with term ending December 31, 2017.

Commissioner District 3 - one (1) member with term ending December 31, 2015.

Commissioner District 4 - one (1) member with term ending December 31, 2017.

Commissioner District 5 - one (1) member with term ending December 31, 2015.

- d. The one non-voting ex-officio Planning Commission member shall be annually appointed for a one year term.
- e. Appointments shall be made by the County Board to fill any vacancy for the unexpired duration of the term. Vacancies in regular positions shall be declared by the County Board under any of the following conditions:
 - 1. Death of a member.
 - 2. Resignation of a member.

3. Removal of a member for cause as provided in this ordinance.

5. Removal

The following shall be deemed sufficient cause for the County Board of Commissioners to remove any PC/BOA member. The County Board of Commissioners can remove any member upon the occurrence of any of the following conditions and can fill vacancies for any unexpired term.

- a. A member who fails to attend one-third (1/3) of the regularly scheduled PC/BOA meetings in any 12 month period.
- b. A member who fails to attend four consecutive regular PC/BOA meetings.
- c. Attendance at several regular PC/BOA meetings for such a short length of time as to render the member's services of little value to the County.
- d. Violation by the member of any land use control ordinance adopted by the County pursuant to Minnesota Statutes 394.27 to 394.37, and all acts amendatory thereof.
- e. Any change in member residency status from unincorporated to incorporated, if the change causes the make-up of the PC/BOA to be inconsistent with this Section. Also any change in residency from the commissioner district the member was appointed to represent.
- f. Inability to carry out the duties of the PC/BOA due to a conflict of interest.
- g. A member who at a PC/BOA meeting engages in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.
- h. Any other reason cited by the County Board of Commissioners.

6. Organization and Procedures

- a. Officers
 1. Officers of the PC/BOA shall be a Chairperson, Vice-Chairperson, Secretary, and other officers as needed.
 2. Officers shall be elected by the PC/BOA at the first meeting held in a calendar year.
 3. In the event of a resignation of an officer, the PC/BOA shall fill the vacancy.
 4. The Chairperson shall preside at all meetings.
 5. The Vice-Chairperson shall assume the responsibilities of the Chairperson when the latter is not able to serve.
 6. The Secretary shall assume the responsibilities of the Chairperson when the latter and the Vice-Chairperson are not able to serve.

7. The PC/BOA authorizes the Environmental Services Director to appoint a County employee to perform the PC/BOA secretarial duties such as producing written meeting minutes.

b. Bylaws and Rules of Procedure

The PC/BOA shall develop bylaws for the transaction of its business, which shall not be inconsistent with or contrary to the statutes of the State of Minnesota or the ordinances of this County. The County Board of Commissioners must approve said bylaws.

c. Meetings

Meetings shall be scheduled and conducted according to the PC/BOA bylaws and at other such times as the Chairperson or Environmental Services Director shall deem necessary and appropriate.

d. Voting

Each of the five voting members, including the chair, shall be entitled to vote on all questions, unless a particular issue involves a conflict of interest. A decision to abstain from voting shall also extend to discussion. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the attending members except the member who is being challenged.

e. Records

The PC/BOA shall keep a written public record filed in the Environmental Services Department of all its proceedings, findings, and determinations on all matters referred to it and shall cause a copy of any order issued by the BOA acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance to be recorded with the County Recorder by the Environmental Services Director as necessary pursuant to Minnesota Statutes.

7. Compensation

The PC/BOA members may be compensated in an amount determined by the County Board and may be paid their necessary expenses in attending meetings and in the conduct of business of the PC/BOA.

Section 1103. Variances and Appeals

1. Variances shall only be permitted when the applicant establishes that they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties complying with the official control. As used in connection with a decision as to whether to grant a variance, practical difficulties 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 a practical difficulty.

In order to grant a variance, the Board of Adjustment must find that all of the following criteria are met:

1. Is the variance request in harmony with the general purposes and intent of the official controls?
2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
3. Is the need for the variance due to circumstances unique to the property and not created by the current or prior property owners?
4. Will the issuance of the variance maintain the essential character of the locality?
5. Does the need for the variance involve more than just economic considerations?

Additional considerations in situations involving after-the-fact variances.

In circumstances where a variance is sought to an official control after the work has already been begun or completed in violation of one or more official controls, additional criteria may, in the discretion of the Board of Adjustment, be considered in determining whether to grant or deny the variance request. If the Board of Adjustment finds that all of the criteria set forth in Section 1103, Item 1, parts 1-5, are met, then the following additional criteria may be considered and weighed by the Board of Adjustment in determining whether to grant or deny the request:

1. Why did the applicant fail to obtain the required permit or comply with the applicable official control before commencing work? Was there any attempt to comply with the applicable official controls?
 2. Did the applicant make a substantial investment in the property before learning of the failure to comply with the applicable official controls?
 3. Did the applicant complete the work before being informed of the violation of applicable official controls?
 4. Are there structures, circumstances, or conditions in the area similar to those that are the subject of the variance request?
 5. Based on all of the facts, does it appear to the Board of Adjustment that the applicant acted in good faith?
 6. Would the benefit to the county appear to be outweighed by the detriment the applicant would suffer if forced to remove the structure?
2. No variance shall be granted simply because there are no objections; or because those who do not object outnumber those who do, nor for any reason other than a proven practical difficulty.

3. 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.
4. A current compliance inspection report must be submitted to the Environmental Services Director for each existing sewage treatment system(s) on the subject property for which a variance application is submitted. If an existing sewage treatment system on the subject property is found to be noncompliant, it must be upgraded to current standards before any permits on the subject property will be issued. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.
5. The Board of Adjustment may impose conditions on the granting of any variance. Conditions are to be directly related to the variance, bear a rough proportionality to the impact created by the variance, and shall be what the Board of Adjustment considers reasonable and necessary to protect the public health, safety and welfare.
6. A variance shall expire and be considered null and void five (5) years from the date of issuance if the use, actions or construction authorized by virtue of the variance has not yet begun. For purposes of this section, construction shall include, but is not limited to, significant site preparation work including land clearing, excavation, and the installation of utilities necessary for the placement, assembly, or installation of utilities or equipment, the installation of footings, slab, foundation, posts, walls or other portions of a structure.
7. No application for a variance or administrative decision appeal shall be resubmitted for a period of one year from the date that the request is denied, except the Environmental Services Director may allow a new application if, in the opinion of the Environmental Services Director, new evidence or a change in circumstances warrant it.
8. If necessary, an extension of a variance shall be requested in writing and filed with the Environmental Services Director at least thirty (30) days before the expiration date of the original variance. The request for extension shall state facts showing a good faith attempt to utilize the variance in the allowed five (5) years. Upon receipt of a request for a variance extension, the Environmental Services Director shall review the request and make a decision to grant or deny the extension based on the information submitted. At staff's discretion, the request may be referred to the Board of Adjustment. No extension shall be for more than one (1) year, after which if the variance is not utilized, the variance becomes void. In no case shall more than one (1) variance extension be approved for an individual variance request.
9. Applications for any variance, any administrative appeal, and any official map appeals as described and set forth in Minnesota Statutes Section 394.361, shall be submitted to the Environmental Services Department on forms provided by the Department for each type of proceeding. They shall be accompanied by all information required to be included in a completed application, as determined by the Environmental Services Director. They shall also be accompanied by the required application fee.
10. The Environmental Services Director shall make a staff report, in writing, to the Board of Adjustment who shall make the final decision after conducting a public hearing in accordance with M.S. 394.26 and the provisions of this Ordinance.
11. Applicable permits are required for any item approved by variance.

12. An appeal of any administrative decision made in the enforcement of this Ordinance shall be made within fifteen (15) days of the date of the administrative decision by filling out and submitting to the Environmental Services Director an Administrative Decision Appeal Application form, which is available from the Environmental Services Director. The administrative decision appeal application form shall state the following:
 - a. The particular order, requirement, decision, or determination from which the appeal is taken;
 - b. The name and address of the appealing person or entity;
 - c. The specific grounds for the appeal, including all argument as to why the appealing person or entity believes the order, requirement, decision or determination being appealed was in error; and
 - d. The specific relief requested by the appealing person or entity.

Such appeal shall be heard by the Board of Adjustment once an application is submitted to and deemed complete by the Environmental Services Director.

The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken. In exercising this power, the Board of Adjustment may direct the issuance of a permit or issue such other order as consistent with its decision on the appeal.

In all administrative and official maps appeals, it is the applicant's burden to prove that the action of the Environmental Services Department was in error and should be reversed or modified.

13. In all variance proceedings before the Board of Adjustment, the burden of proof is on the applicant to show that the criteria for the granting of a variance are present.

Section 1104. Permits

All property owners or designee having charge of the erection, alteration, moving, or change of the exterior or use of any structure shall apply for a land use permit from the Hubbard County Environmental Services Director before beginning or undertaking such work. Additionally, no grading, filling, or excavation for footings, foundations, slabs, posts, basements, walls or other parts of a structure shall be conducted without first securing a land use permit.

Permits are also required for grading and filling, vegetative alteration in the shore impact zone, SSTS, signs, variances and conditional uses. Any modification, alteration or change to a structure that results in a change of use of the structure requires a permit issued by the Hubbard County Environmental Services Director. Repairs and maintenance as defined herein shall not require a permit. After the appropriate fee has been paid, and if the proposed work does not conflict with any portion of the Hubbard County Shoreland Management Ordinance or any other County ordinance and there are no outstanding violations on the parcel per Section 1109, the permit shall be granted. If the permit is not granted, the reasons for such denial will be provided, in writing, to the applicant.

1. Application for a land use permit shall be made to the Environmental Services Director on blank forms to be provided by the County. Each application for a permit to construct, alter, move or change the exterior or use of a building shall be accompanied by a plan, drawn to scale, showing: the dimensions of the lot to be built upon; and the size and location of the

structures. Applications for land use permits shall contain other such information as may be deemed necessary for the proper enforcement of this Ordinance.

2. Permits for the installation of sewage disposal systems, for grading and filling projects, and for the erection of signs in shoreland areas must also be obtained from the Environmental Services Director before such installation or erection has begun.
3. When any part of a proposed structure lies partly within the Shoreland Management Ordinance jurisdictional area, a land use permit shall be required for said structure.
4. A land use permit is not required for such structures as: satellite dishes, propane tanks, outdoor woodstoves, sidewalks, underground sprinkler and/or irrigation systems, hot tubs, currently licensed fish houses/dark houses, and pump houses no larger than 4' x 4' x 4' provided that all setback requirements are met. Other structures and items which in the discretion of the Environmental Services Director are of a nature sufficiently similar to those listed herein, may, at the discretion of the Environmental Services Director, be exempt from the requirement of obtaining a land use permit. A land use permit shall not be required for normal maintenance such as painting, siding, roofing, and other similar improvements which do not involve exterior structural change to the structure.
5. All land use, grading and filling, and shoreland alteration and sanitary permits shall expire one year from the date of approval unless a written extension is granted by the Environmental Services Director prior to the date of expiration.
6. No contractor or individual shall perform work upon a project requiring a permit under this Ordinance unless such permit has been issued and posted on the premises and until such contractor or individual has first verified any and all conditions of the permit.

Section 1105. Conditional Use Permits

Any use listed as a Conditional Use in this Ordinance shall be permitted only upon application to the Environmental Services Director, review and recommendation of the Planning Commission, and approval and issuance of a Conditional Use Permit by the Hubbard County Board of Commissioners. The applicant for a conditional use permit shall fill out and submit to the Environmental Services Director an Application for Conditional Use Permit. When such permit is submitted, the appropriate fee shall be paid in order for the application to receive consideration.

1. In considering the granting of any conditional use permit, the Planning Commission and County Board of Commissioners shall evaluate the effect of the proposed use upon:
 - A. the maintenance of the public health, safety and welfare;
 - B. the prevention and control of water pollution, including sedimentation and nutrient loading;
 - C. existing topography and drainage features and vegetative cover on the site;
 - D. the location of the site with respect to floodplains and floodways of rivers or tributaries;
 - E. the erosion potential of the site based upon the degree and direction of slope, soil type

and existing vegetative cover;

- F. the location of the site with respect to existing and proposed access roads;
- G. its compatibility with adjacent land uses;
- H. the need for the proposed use for a shoreland location;
- I. the amount of liquid waste to be generated and the adequacy of the proposed sewage disposal system;
- J. the visibility of structures and other facilities as viewed from public waters;
- K. adequacy of the site for water supply and on-site sewage treatment systems;
- L. assessment of the types, uses, and numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate these watercraft.

An applicant for a conditional use permit bears the burden of proving the proposed use will not have a negative effect on the above-listed items A-L.

2. Upon consideration of the factors listed above, the Planning Commission or Hubbard County Board of Commissioners may attach such conditions, in addition to those required elsewhere in this Ordinance, that it deems necessary for the furtherance of the purposes set forth in this Ordinance. Such conditions attached to conditional use permits may include, but shall not be limited to:
 - A. type and extent of shore cover;
 - B. increased yards and setbacks;
 - C. specified sewage treatment and water supply facilities;
 - D. landscaping and vegetative screening;
 - E. periods and/or hours of operation;
 - F. operational control sureties;
 - G. deed restrictions;
 - H. location of piers, docks, parking, and signs;
 - I. type of construction;
 - J. controlling the location and number of vehicle access points;
 - K. increasing the number of required off-street parking spaces;
 - L. limiting the number, size, location, or lighting of signs;

- M. the Board of County Commissioners may require letters of credit to ensure all conditions are adhered to;
 - N. any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance.
3. In order to secure information upon which to base the Planning Commission recommendation, and County Board approval, the applicant may be required to furnish, in addition to the information required for the building or other permit, the following:
 - A. a plan of the proposed project area showing contours, soil types, ordinary high water level, groundwater conditions, bedrock, slope, and vegetative cover;
 - B. location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and vegetative cover;
 - C. plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations;
 - D. specifications for areas of proposed grading, filling, lagooning, dredging, or other topographic alterations;
 - E. other pertinent information necessary to determine if the proposal meets the requirements and intent of this Ordinance.
 4. No application for a conditional use permit shall be resubmitted for a period of one year from the date that a request is denied, except that the Environmental Services Director may allow a new application if, in the discretion of the Environmental Services Director, new evidence or a change in circumstances warrant it.
 5. A conditional use permit operating permit must first be obtained in order to legally initiate any conditional use approved by the County Board.
 6. The use allowed under a conditional use permit issued under this section must commence within two years of the date the conditional use was approved or the conditional use permit shall automatically be deemed null and void.
 7. Any change involving structural alterations, enlargements, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit was being issued.
 8. A request to amend an existing conditional use permit shall be administered in the same manner that is required for a new conditional use permit application. Amendments to a conditional use permit shall be limited to requests for changes in specific conditions of the existing permit.

Section 1106. Interim Use Permits

Interim use permits (IUP) may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this Ordinance.

Any IUP issued under this Ordinance is granted solely to the applicant and/or the business entity named in the application, and for the premises named in the IUP application. No IUP of any sort granted pursuant to this Ordinance is transferable to any other person or premises. If a change of ownership, control, or location of any licensed premises occurs, whether pursuant to move, sale, transfer, assignment, or otherwise, the owner or proposed new owner must complete a new application subject to approval pursuant to this Ordinance.

Interim use permits shall be valid for a period of time specified by the conditions of the IUP. Interim use permits shall expire after the specified period of time in the conditions, unless renewed before the expiration date. Once an IUP is renewed, it will have to be renewed annually to prevent expiration of the IUP.

Application

Applications for interim use permits along with the accompanying fee shall be submitted to the Environmental Services Director on forms supplied by the Environmental Services Director for that purpose.

The application must include sufficient information to allow the Environmental Services Director to find that the standards and criteria stated in this ordinance for the granting of such permit can or cannot be satisfied, including but not limited to a description of the proposed use, site plans, and surrounding land use.

Administrative Procedure

Upon receipt of an application, the Environmental Services Director shall review the application as to form, completeness, and compliance with the provisions of this ordinance. If found to be proper, the Environmental Services Director shall process the application.

An application deemed complete by the Environmental Services Director will be considered at the next appropriate Planning Commission meeting as an application for an Interim Use Permit. The Planning Commission shall conduct a public hearing on the application and make a recommendation on the application to the County Board.

The County Board will consider the Planning Commission's recommendation and make a final decision on the application and place any appropriate conditions on approved applications.

Review Procedure

In all cases the County shall consider whether:

- a. The proposed use is a interim use expressly designated in the ordinance; and,
- b. The proposed interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity; and,
- c. The establishment of the interim use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area; and,

- d. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided; and,
- e. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and,
- f. Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- g. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
 - 1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction; and,
 - 2. The visibility of structures and other facilities as viewed from public waters is limited; and,
 - 3. The site is adequate for water supply and on-site sewage treatment; and,
 - 4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

Conditions Attached to Interim Use Permits

The County, upon consideration of the criteria listed above and the purposes of this ordinance, shall consider the attachment of such conditions to the interim use permit as it deems necessary to fulfill the purposes of this ordinance. 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; and
- C. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- D. Modification of waste treatment and water supply facilities.
- E. Limitations on period of use, occupancy, and operation.
- F. Imposition of operational controls, sureties, and deed restrictions.

Decisions

In granting an Interim Use Permit, the Board of County Commissioners shall prescribe appropriate conditions and safeguards, which are in conformity with the intent of this Ordinance.

Violation of any conditions, limitations, restrictions, or other safeguards, written into the terms of approval under which an Interim Use Permit has been granted, shall be deemed a violation of this Ordinance punishable as specified in Section 1109.

Effectiveness of Permit

The IUP shall expire with a change of ownership, or unless otherwise required by the IUP's conditions as determined by the County Board. The IUP shall expire if the approved use is inactive for one (1) year or longer as determined by the Environmental Services Director. Interim use permits shall expire after the period of time specified by the conditions of the IUP.

Section 1107. Amendments

The procedure for amendments to this Ordinance shall be as follows:

1. An amendment may be initiated by a property owner, the Planning Commission or the County Board of Commissioners. Property owners wishing to initiate an amendment shall fill out an Application for Amendment form, available from the Environmental Services Director. Such application shall be filled out and submitted to the Environmental Services Director together with the appropriate fee;
2. The applicant shall appear before the Planning Commission at a public hearing that will be held to consider the amendment request to answer any questions that Commission members may have concerning the amendment request;
3. The Public hearing shall be conducted in accordance with M.S. 394.26;
4. The Planning Commission shall make a recommendation to the County Board of Commissioners after the proceedings of this public hearing.
5. The County Board shall consider the Planning Commission recommendation after the public hearing is conducted.

Section 1108. Public Notice and Hearing Requirements

1. In addition to the procedures described in preceding sections of this Ordinance, all conditional use permit requests, variance requests, requests for amendments, and final plat approval shall be reviewed at a public hearing conducted at least ten (10) days following official public notification including publication in the official newspaper of Hubbard County and written notification by U.S. mail of all property owners within the following distances from the affected property when such notice is applicable: In the case of variances, 500 feet; In the case of Interim and Conditional Uses, one quarter mile or ten nearest properties, whichever provides notice to the most property owners; In the case of amendments to official controls which affect specific properties and preliminary plat review, one half mile.
2. The Commissioner of Natural Resources must also receive at least ten (10) days notification of hearings to be conducted concerning applications for conditional use permits, variances, amendments or final plat approvals. Notice of hearings to consider subdivisions must include copies of the proposed final plat.

3. The Commissioner must also receive a copy of approved conditional use permits, variances, zoning amendments and final plats postmarked within ten (10) days of final action.

Section 1109. Enforcement and Penalties

1. **Administrative.** Whenever any construction or installation is being done contrary to the provisions of this Ordinance, the work shall be stopped when written notice is served on any persons engaged in the doing or causing such work to be done or when notice is posted at the construction/installation site. The Environmental Services Director may, in writing, suspend or revoke a permit issued in error or on the basis of incorrect information supplied, or for any violation of any other provisions of this Ordinance.
2. **Investigations.** The Environmental Services Director shall investigate all violations of this Ordinance, notify the owners of violations and direct the property owner to correct violations within a reasonable period of time, and if compliance is not obtained within a reasonable period of time, shall report such violations to the County Attorney, who shall take appropriate action on the matter.
3. **Civil.** In the event of violation or threatened violation of this Ordinance, the County Board of Commissioners, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Hubbard County Attorney to institute such action.
4. **Criminal.** Any person, firm or corporation who shall violate any of the provisions herein, or who shall fail to comply with any of the provisions herein, or who shall make any false statement in any document required to be submitted under such provisions, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by such penalties and fines provided by law.
5. **Interference with County Access or Administration/Enforcement Prohibited.**
All employees of the Hubbard County Environmental Service Department, members of the County Board of Commissioners, Planning Commission and Board of Adjustment, in the performance of their duties shall have free access to all land included within the jurisdiction of this Ordinance. Access to the land shall be during normal business hours unless an emergency exists.

No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

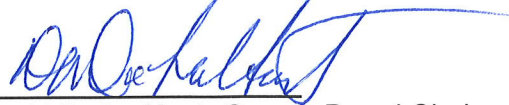
Section 1110. Fees

In order to defray the administrative costs associated with the processing of applications for land use and related permits, conditional use permits, variance requests, amendments and subdivision approval, a schedule of fees has been adopted by the Hubbard County Board of Commissioners. The schedule of fees shall be posted in the Environmental Services Department, and may be altered or amended only by resolution of the County Board of Commissioners.

Payment. No application for a permit, conditional use permit, variance, operating permit, subdivision/plat, nor any other required permit, petition to amend this ordinance, nor any appeal shall be recognized, acted upon, issued or granted unless and until all required fees have been submitted in full to the Environmental Services Director. Receipt of all fees shall be subject to their collection by the County. If a fee is submitted by credit card, check or money order, no permit granted or action taken shall be of any force or effect until the credit card, check or money order so submitted shall prove collectable.

Refunds. Should a permit, application, or appeal be denied, the fee shall not be refunded.

Adopted by the Hubbard County Board of Commissioners this 17th day of August, 2021.



David De La Hunt, County Board Chair

Attest:



Jeff Cadwell, County Administrator

Published in the Park Rapids Enterprise the 11th day of September, 2021.

Amended July 7, 1993
Amended January 1, 1994
Amended April 5, 1995
Amended January 1, 1996
Amended January 1, 1999
Amended March 15, 1999
Amended November 15, 2004
Amended July 20, 2006
Amended May 1, 2008
Amended March 26, 2009
Amended February 4, 2010
Amended July 27, 2011
Amended September 28, 2011
Amended November 9, 2011
Amended November 5, 2013
Amended June 25, 2014
Amended February 25, 2015
Amended April 3, 2018
Amended September 17, 2019
Amended August 17, 2021

**HUBBARD COUNTY
SOLID WASTE ORDINANCE #18**

Amended on April 1, 1994
Amended on July 7, 2004
Amended on July 6, 2011

AN ORDINANCE ESTABLISHING STANDARDS FOR AND REGULATING THE OPERATION OF SOLID WASTE DISPOSAL WITHIN THE COUNTY OF HUBBARD, MINNESOTA; REQUIRING A LICENSE FOR ESTABLISHING AND OPERATING A SOLID WASTE FACILITY; ESTABLISHING REQUIREMENTS FOR CONTROL OF SPECIAL SOLID WASTES AND FOR FIRE PROTECTION; PROVIDING FOR AN ENFORCEMENT AGENCY, AND IMPOSING PENALTIES FOR FAILURE TO COMPLY WITH THESE PROVISIONS; AND REQUIRING A LICENSE AND REQUIREMENTS OF A PERFORMANCE BOND FOR PERSONS WHO PROVIDE A SERVICE OF COLLECTING AND TRANSPORTING MIXED MUNICIPAL SOLID WASTE AND RECYCLABLES IN ORDER TO PROMOTE THE HEALTH, WELFARE AND SAFETY OF THE PUBLIC PURSUANT TO LAWS OF MINNESOTA 1984, CHAPTERS 115, 115a, 116, AND 400.

Be it ordained and enacted by the County Board of Commissioners of the County of Hubbard, State of Minnesota, that this Ordinance, to wit: County Ordinance Number 18, adopted by this act, hereby replaces and nullifies existing County Solid Waste Ordinance Number 7 in its entirety as well as all amendments there to. Be it further ordained and enacted, that Hubbard County Ordinance Number 1 is hereby repealed in its entirety.

SECTION I. DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Ordinance its most reasonable application. For the purpose of this Ordinance, the words "must" and "shall" are mandatory; the word "may" and "should" is permissive. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number as well.

ACCEPTABLE WASTE: means waste which is acceptable at the designated facility. Acceptable waste shall include garbage, refuse and municipal solid waste from residential commercial, industrial and community activities which is generated and collected in aggregate, and which is not otherwise defined herein as unacceptable waste. No amount of hazardous or infectious waste that is regulated by law is acceptable at the designated facility.

AGENCY: means the Minnesota Pollution Control Agency, its agents or representatives.

AGRICULTURAL SITE: means land zoned and/or operated for agricultural purposes but excludes the residential site on said premises.

BODY/REPAIR SHOP: means a person, partnership or corporation whose main business is repairing motorized vehicles, and who keeps all such vehicles in a licensed and upright condition.

CATHODE-RAY TUBE OR CRT: means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

COLLECTOR: means any person, persons or corporation who collects, stores, junk; automobiles; boats; snowmobiles; motor homes; recreational vehicles or mobile homes equal in bulk to five (5) or more motor vehicles for three (3) months or more where no wrecking, dismantling, of parts for resale is conducted or intended.

COLLECTOR VEHICLE: means a motor vehicle of at least 20 years old which is in a licensed and upright condition.

COMMISSIONER: means the Commissioner of the Minnesota Pollution Control Agency.

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 and roads and other artificial structures, including: concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, plastic building parts, plumbing fixtures, roofing materials, wallboard, and built-in cabinetry. Construction and Demolition Debris does not include: asbestos waste; auto glass; wood treated with chemical preservatives; furniture; lighting equipment; vermiculite; contaminated soil; firebrick; food waste; machinery; engine parts; liquid paints; paint thinners or solvents; varnishes; street sweepings; tar; carpet/padding if not affixed to a structure; mattresses; adhesives, caulking, sealants and applicators, brushes, containers, tubes, filters contaminated with these materials; sandblasting materials; agricultural chemicals or containers (including empty pesticide, herbicide, and insecticide containers); chemical containers; animal carcasses, parts, or rendering and slaughterhouse wastes; major appliances, electronics, ashes or hot wastes that could spontaneously combust or ignite other wastes due to high temperatures; ash from incinerators, resource recovery facilities and power plants; batteries; carbon filters; fluorescent tubes and ballasts; high-intensity discharge lamps; foundry wastes; Hazardous Waste; household Refuse or garbage; infectious waste; liquids (any type), liquid non-hazardous materials; medical waste; mercury containing wastes (thermostats, switches); PCB contaminated wastes; petroleum products and their containers or filters (including oil, grease or fuel); radioactive waste (unless natural materials at normal background levels); septic tank pumping; sludge's (including ink, lime, wood, sewage or paper); live coal tar (including applicators, containers, and tubes); Waste Tires; vehicles; Yard Waste; and packaging materials, including cardboard, paper, shrink-wrap and Styrofoam. Mixtures of Construction and Demolition Debris with other Solid Waste is not Construction and Demolition Debris.

CONSTRUCTION AND DEMOLITION DEBRIS LAND DISPOSAL FACILITY: means a site used to dispose of construction and demolition debris.

CONSTRUCTION SITE: means a place where the erection of buildings, roads or other improvements to real property is occurring

COUNTY BOARD: means the Hubbard County Board of Commissioners.

COVER MATERIAL: means material approved by the agency that is used to cover compacted solid waste in a land disposal site. Important characteristics of good cover material are generally uniform texture, low permeability, cohesiveness and compactibility.

DISMANTLE/SALVAGE: means remove useable or repairable parts from a vehicle and sell them for reuse.

DISPOSAL: means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste 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 water, including ground waters.

DISPOSAL FACILITY: means a waste facility permitted by the 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.

DURABLE CONTAINER: means something designed to have capacity for receiving and holding solid waste and not likely to wear out or decay for a long time i.e. more than three (3) years.

EFFECTIVELY CONCEAL: means to remove from sight by relocation or by the erection of a man-made or natural barrier(s) such as fencing, trees or berm so as to prevent public view of potentially unsightly or nuisance material from public road.

ELECTRONICS: means any waste that has a circuit board or a cathode-ray tube (CRT) this includes but not limited to computers and their peripheral, televisions, telephones and fax machines.

FACILITY OR SITE: means all contiguous land, structures, monitoring devices, and other improvements on the land used for monitoring, treating, processing, storing or disposing of solid waste, leachate, or residuals from solid waste processing.

GARBAGE: means discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.

GENERATOR: means any person who generates or aggregates solid waste.

HAULER: means any person who collects or transports solid waste, recyclable materials or yard waste but does not include a self hauler.

HAULER SERVICE: means the mixed municipal solid waste service provided by a hauler.

HAZARDOUS AND TOXIC WASTE: means any refuse or discarded material or combinations of refuse or discarded materials in solid, semi-solid, liquid, or gaseous form which cannot be handled by

routine waste management techniques because they pose a substantial present or potential hazard to human health or other living organisms because of their chemical, biological, or physical properties. Categories of hazardous waste materials include, but are not limited to, explosives, flammables, oxidizers, poisons, irritants and corrosives.

IMMINENT HAZARD: means an actual or potential immediate threat to health, safety or well being of humans or livestock that may cause environmental degradation.

INCINERATION: means the process by which solid wastes are burned for the purpose of volume or weight reduction or energy recovery in facilities designed, permitted, and licensed for such use.

INDUSTRIAL SOLID WASTE: means Solid Waste generated from an industrial or manufacturing process and Solid Waste generated from non-manufacturing activities that is Collected, Processed, or Disposed of as a separate waste stream. Industrial Solid Waste does not include office materials, restaurant and food preparation waste, discarded machinery, Construction and Demolition Debris, Mixed Municipal Solid Waste, or Mixed Municipal Solid Waste combustor ash.

INTERMEDIATE DISPOSAL FACILITY: means a preliminary or incomplete disposal of solid waste including, but not limited to, transfer station operation, open burning, incomplete land disposal, incineration, composting, reduction, shredding, compression, recycling, processing, resources recovery, and any other means or handling of waste short of final disposal.

INOPERABLE/INOPERATIVE: Any piece of equipment not currently awaiting repairs that is not capable of functioning and/or operating for the purpose in which it was manufactured or intended.

JUNK: means scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, ferrous material, non ferrous material, inoperable and/or inoperative and/or unlicensed motor vehicles, recreational vehicles, agricultural, or construction machinery and parts thereof, that may be used again in some form, second hand. Something of poor quality, worn or discarded articles, clutter, something of little meaning, worth or significance, worthless.

JUNK MOTOR VEHICLE: A motor vehicle that is partially damaged dismantled or wrecked or cannot be self propelled or moved in a manner in which it originally was intended to move or does not display current license plate.

JUNKYARD: means land or buildings where solid waste, discarded or salvaged materials are brought, purchased, sold, exchanged, stored, cleaned, packed, disassembled or handled, including but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products, and products resulting from the wrecking, dismantling of automobiles, boats, snowmobiles, or other vehicles, or used motor homes provided further that the storage of junk equal in bulk to five (5) or more inoperative and/or unlicensed motor vehicles, which are to be resold for used parts or old iron, metal, glass or other discarded materials, for a period in excess of three (3) months shall be considered a junkyard, whether maintained in connection with another business or not.

LICENSEE: means the landowner, owner, operator or other person or persons who has been issued a license by the County Board for solid waste management purposes pursuant to this Ordinance.

MAJOR APPLIANCE/WHITE GOODS: means clothes washers and dryers, dishwashers, water heaters, heat pumps, furnaces, garbage disposals, trash compactors, conventional and microwave ovens, ranges and stoves, air conditioners, dehumidifiers, refrigerators, freezers and other appliances designated by State law or this Ordinance.

MIXED MUNICIPAL SOLID WASTE: means

A. garbage, Refuse, and other Solid Waste from residential, Non-Residential, industrial, and community activities that the Generator of the waste aggregates for Collection, except as provided in paragraph B.

B. Mixed Municipal Solid Waste does not include auto hulks, street sweepings, ash, Construction and Demolition Debris, mining waste, sludge's, tree and agricultural wastes, Waste Tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and Disposed of as separate waste streams, but does include Source-Separated Compostable Materials.

MOTOR VEHICLE: Any machine designed or intended to travel on or over land or on or under water by self-propulsion or while attached to a self propelled vehicle

MPCA: means the MN Pollution Control Agency.

MUNICIPALITY: means an incorporated city or town within the County

NOTICE OF VIOLATION: is a formal written notice issued by County staff to notify a party that he or she is in violation of a County Ordinance. This notice will inform the party of the alleged violation, the nature and extent of violation(s) and the required corrective actions.

OFFICE: means the Hubbard County Solid Waste Management Office.

OPEN BURNING: means burning any solid waste whereby the resultant combustion products are emitted to the open atmosphere.

OPERATOR: means the person responsible for the operation of the solid waste management facility.

OWNER: means any person or persons having a legal interest in or personal property or any person in possession or control of real or personal property including but not limited to, mortgages, contract for deed vendees and contract for deed vendor.

PERIPHERAL: means keyboard, printer, or any other devise sold exclusively for external use with a computer that provides input or output into or from a computer.

PERSON: means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity unless exempted by statute or rule.

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 Minn. Stat. §115B.02; 2) pollution of water as defined in Minn. Stat. §115.01; 3) air pollution as defined in Minn. Stat. §116.06; or 4) a significant threat to the safe or efficient operation of a Solid Waste Management Facility.

PROCESSING: means the treatment of waste after collection and before disposal. Processing includes but is not limited to reduction, storage, separation, exchange, resource recovery, physical, chemical or biological modification, and transfer from one waste facility to another.

PUBLIC HEALTH NUISANCE: means the creation of conditions or acts that injure, or endanger the safety, health, comfort, or repose of any number of members of the public.

PUBLIC VIEW: View from a passenger vehicle driven along any public road maintained by the state or local unit of government for public travel or along any private road that provides access to ten or more residence or a commercial establishment.

PUTRESCIBLE MATERIAL: means solid waste which is capable of being rotten, or which may reach fowl state of decay or decomposition

RECYCLABLE MATERIAL: means materials that are separated from mixed municipal solid waste for the purpose of recycling or composting including but not limited to paper, corrugate, glass, plastic, tin, aluminum, cloth, motor oil, lead acid batteries, tires, scrap metal, white goods and source separated compostable materials. Recyclable materials also refers to marketable materials separated from Industrial Solid waste and construction and demolition debris for the purpose of recycling.

RECYCLING: means the process of collecting and preparing recyclable materials and reusing the material in their original form or using them in manufacturing process that does not cause destruction of recyclable materials in a manner that precludes further use.

RECYCLING FACILITY: means a facility where recyclable materials are collected, processed for marketing or loaded into vehicles for transport to market.

REFUSE: means putrescible and non-putrescible solid waste, including garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.

SANITARY LANDFILL: means land disposal site employing any engineering method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste into the smallest particle volume, and applying cover material at the end of each operating day or at

intervals as may be required by the agency.

SCAVENGING: means the removal of waste materials from a licensed solid waste facility, which has not been authorized by the office.

SCRAP DEALER: means a person, partnership, or corporation that buys and sells marketable metals.

SCREENING: means the placement of man-made or natural barriers such as fencing, trees, shrubs, or earth berm so as to prevent public view of potentially unsightly or nuisance material.

SELF HAULER: means a person who transports their own solid waste for solid waste management purposes.

SHORELAND: is defined as land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage and 500 feet from a river or stream, or the landward extent of a floodplain designated 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, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock, sewage sludge, solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section #402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended or its successor.

SOLID WASTE ADMINISTRATOR: means the duly appointed person or his authorized representative(s), by the Hubbard County Board responsible for enforcement and implementation of this Ordinance.

SOLID WASTE COLLECTION: means the gathering of solid waste from public or private places.

SOLID WASTE DEPARTMENT OR DEPARTMENT: means the Hubbard County Solid Waste Management Department.

SOLID WASTE MANAGEMENT FACILITY: means a Solid Waste Land Disposal Facility, a Construction and Demolition Debris Land Disposal Facility, an Industrial Solid Waste Land Disposal Facility, a Compost Facility, a Transfer Station, a Solid Waste Processing Facility, a Waste Tire Facility, a Waste Tire Collection Site, a Waste Tire Processing Facility, or a Recycling Facility

SOLID WASTE MANAGEMENT PLAN: means the County Solid Waste Management Plan developed, adopted, and approved under Minn. Stat. §115A.46 or Minn. Stat. §473.149.

SOLID WASTE MANAGEMENT SERVICES: means all activities provided by the County, by Persons under contract with the County, or by other Persons that support the waste management responsibilities described in Minn. Stat. Chapters 115A, 116, 400 and 473, including, but not limited to, waste reduction and reuse; waste recycling; composting of Yard Waste and food waste; Resource Recovery through Mixed Municipal Solid Waste composting or incineration; land disposal; management of problem materials and household hazardous waste; Collection, Processing, and Disposal of Solid Waste, Closure and post-closure care of a Solid Waste Management Facility, and response, as defined in Minn. Stat. §115B.02, to Releases from a Solid Waste Management Facility.

SOLID WASTE SPECIAL ASSESSMENT: means a service charge imposed pursuant to MN Stat. § 400 or §437.811 subd, 3a.

SOLID WASTE STORAGE: means the holding of solid waste for more than two weeks in quantities equal to or greater than two (2) cubic yards or 48 hours if stored in hauler vehicle.

SOURCE SEPARATION: means the separation, by the generator, of any material for the purpose of preventing its introduction into the mixed municipal solid waste stream.

SPECIAL WASTES: are non-hazardous Solid Wastes that have been prohibited from disposal with Mixed Municipal Solid Waste or have had other specific management requirements prescribed by statute.

STATE: means the State of Minnesota

TRANSFER STATION: means an intermediate solid waste disposal facility in which solid waste collected from any source is temporarily deposited to await transportation to another solid waste management facility.

VIDEO DISPLAY DEVICE (VDD): means television, computer monitor, laptop computers and other electronic devices with a screen size greater than 9 inches diagonally

VISIBLE: capable of being seen by a person of normal acuity.

WASTE: means solid waste, sewage sludge and hazardous waste.

WASTE REDUCTION: means an activity that prevents generation of waste including reusing a product in it's original form, increasing the life span of the product, reducing material used in production and packaging, or changing procurement, consumption, or waste generation habits to result in smaller quantities of waste generated.

WASTE TIRE: means solid waste which consists of rubber or other resilient material product which is used on a vehicle or other equipment wheel to provide tread which is discarded or which cannot be used for its original intended purpose because it is used, damaged or defective.

WORKING FACE: means that portion of the land disposal facility where waste is discharged, spread and compacted prior to the placement of cover material

YARD WASTE: means the garden wastes, leaves, lawn cuttings, weeds, and pruning generated at residential or commercial properties.

SECTION II. GENERAL PROVISIONS AND RESPONSIBILITIES.

Sub section 1 - Provisions

- a. No person shall dispose of solid waste, nor allow his land or property under his control to be used for intermediate or final disposal of any solid waste in the County
- b. Any operation to be used for any method of solid waste management must comply with all applicable Minnesota Pollution Control Agency Solid Waste Management Rules, Hubbard County Solid Waste Plan, this Ordinance, and approved and licensed by the County Board before operation may commence.

Sub section 2 - Responsibilities

- a. The Solid Waste Administrator shall have the right and duty to administer this ordinance. The Solid Waste Administrator shall have the necessary authority to implement and carry out the provisions of this ordinance, but shall not be limited to those described in this section.
- b. The Solid Waste Administrator shall have the right and duty to inspect private property to determine if the property owner is in compliance with the provision of this ordinance. For the purpose of inspecting the Solid Waste Administrator shall have the right to entry upon all lands within the County for the purpose of determining compliance with this ordinance. Routine inspection and evaluation of solid waste management activities, sites, or facilities shall be made by the Solid Waste Administrator in such frequency to ensure consistent compliance by the operation with the provisions of this ordinance. Inspections shall be made in a reasonable manner during the usual and customary hours for the conduct of business.
- c. Solid Waste Administrator shall have the right and duty to review and consider all license applications submitted to the Solid Waste Office for operation of all solid waste management activities, sites, licenses or facilities within the County for approval by the County Board and after due consideration , shall recommend to County Board that license be granted or denied.
- d. Solid Waste Administrator shall review and consider renewal license applications for Solid waste hauler/Recyclable collector and junk yard operator licenses and to impose specific conditions on such licenses.
- e. Solid Waste Administrator shall have the right and duty to investigate complaints of violations of this ordinance.
- f. Solid Waste Administrator shall have the right and duty to recommend, when necessary to the County Attorney's Office, that legal proceeding be initiated against a person, group of persons

or a certain site or facility to compel compliance with the provisions of this ordinance or to terminate the operation of the same.

- g. Solid Waste Administrator shall have the right and duty to employ qualified personnel, supervise and inspect the day to day operations of the facilities, facility staff both county employed and privately contracted.
- h. Solid Waste Administrator shall have the right and duty to identify the solid waste management need of the county; developing and implementing plans to meet those needs.
- i. Solid Waste Administrator shall have the right and duty to encourage and conduct studies, investigations, and research relating to aspects of solid waste management, including, but not limited to, methodology, chemical and physical consideration, and engineering.
- j. Solid Waste Administrator shall have the right and duty to advise, consult and cooperate with other governmental agencies in the furtherance of the purposes of this ordinance.
- k. Solid Waste Administrator shall have the right and duty to provide and maintain a public information and education bureau relative to solid waste, reduction, reuse, recycling and other matters arising out of this ordinance.

SECTION III SOLID WASTE STORAGE.

The owner, manager, lessee, occupant of every property, premises, business establishment or industry shall be responsible for the satisfactory storage of all solid waste accumulated at the property, premise, business establishment or industry. No building, structure, area, or premise shall be constructed or maintained for human occupancy, use or assembly without adequate facilities for sanitary and safe storage, collection, transportation and disposal of all solid wastes. Further, no person shall cause, allow or permit garbage, trash, refuse, cans, paper ashes, junk, construction/demolition waste, hazardous waste, tires, white goods, electronic waste, furniture or other solid waste to be dumped, thrown, buried, scattered, deposited or Burned upon any public or private land or waterways within the County.

- a. All solid waste shall be stored in a pollution and nuisance free manner and in compliance with the regulation of Federal, State and local government and their regulatory Agencies.
- b. Property owners shall store solid waste in a manner to prevent loss of solid waste to the environment and to preclude the development of vector, odor and public nuisance problems.
- c. Property owners shall cause solid waste to be removed and deposited at a permitted disposal facility at a frequency so as to not create a nuisance. Solid waste shall not be stored on public or private property in quantities equal to 2 cubic yards for more than two (2) weeks or not to exceed 48 hours if stored in a hauler collection or transportation vehicle without written approval of the Solid Waste Administrator.

- d. Solid waste suitable for recycling or recyclable materials must be stored in an acceptable manner that avoids risk to public safety and otherwise complies with this ordinance.
 - 1. Recyclable materials must be delivered to the appropriate materials processing facility as outlined in rules by the Agency or any other facility permitted to recycle or compost the materials.
- e. Solid waste objects or materials too large or otherwise unsuitable for storage containers shall be stored in a pollution and nuisance-free manner and in compliance with this ordinance.
- f. Solid waste shall be stored in durable, rust resistant, nonabsorbent, water tight, rodent proof, easily cleanable containers, with close fitting, fly tight covers and have adequate handles or bails to facilitate handling. Other types of containers may be acceptable provided they conform to the intent of this section and close to resist entrance of water, loaded no more than fifty (50) pounds and are strong enough to allow collection and loading by hand.
- g. Solid waste containers must be maintained to prevent the creation of a nuisance or menace to public health. Containers shall be maintained in good repair. Containers that are broken or otherwise fail to meet this section must be replaced with acceptable containers.

SECTION IV COLLECTION AND TRANSPORTATION OF SOLID WASTE AND RECYCLABLES.

This section shall apply to all persons seeking a license to collect and transport mixed municipal solid waste, at the point of generation or that transfer or otherwise transport solid waste to a disposal or processing facility. Persons hauling solid waste, self haulers, in vehicles bearing passenger license plates are exempt from the licensing requirements but solid waste shall be collected and transported in a nuisance and litter free manner and must be secured so as to prevent escape of any waste material.

- A. Pursuant to Minn. Stat. 115A.93, sub div. 1, a person may not collect solid waste for hire without a license from the jurisdiction where the waste is collected.
- B. An applicant shall submit a completed form provided by the County for Solid Waste Hauler/recyclable Collector and Transportation license along with the required license fee established by the County Board.
- C. Applicant shall submit a list of all vehicles, including satellite vehicles, to be used for solid waste collection and transportation, specifying make, model, and year for each vehicle; each vehicles rated capacity and license plate number.
- D. The total number and list of commercial accounts in the County and their annual volume generated, the total number of residential accounts in the County, the days of the week solid waste is collected for each city and township in the County and description of route to be followed between collection and the facility delivered to.

- E. A description of the company's volume based pricing, recycling, program and any other waste abatement activities.
- F. A certificate of insurance and bond in the amount established by the County Board and naming the County as obligee shall be submitted with the application.
- G. Any additional information pertaining to Solid Waste management requested by the Solid Waste administrator shall be submitted with the application.
- H. Application for license renewal shall be made on forms furnished by the County and submitted to the Solid Waste office by November 1st of each year. Applications shall be accompanied by the required information in this section along with a written statement of any changes in operation since last approved application.
- I. Any license granted under the provisions of this ordinance, unless otherwise provided of this herein, shall expire December 31st of each year unless sooner revoked. Any license may be suspended or revoked at any time for failure to comply with the provisions of this ordinance.
- J. Haulers and Recyclable collectors shall submit an annual report to the Solid Waste Office, summarizing the previous Calendar year, identifying the weight in tons of each respective recyclable and all other solid waste collected in the County.

SECTION V SOLID WASTE FACILITIES.

Privately owned/operated Solid Waste Facilities, including but not limited to mixed municipal Sanitary Landfills, modified landfills, transfer stations, demolition debris landfills, recycling facilities, incinerators, or refuse derived fuel facilities must comply with all applicable Minnesota Pollution Control Agency Solid Waste Management Rules, Hubbard County Solid Waste Plan, this Ordinance and must be approved and licensed by the County Board before operation may commence.

- A. Burn barrels are considered a non-approved disposal facility and use of such system by any person or persons for the disposal of solid waste is considered a violation of this Ordinance and subject to the provisions of this Ordinance.

SECTION VII ANTI-SCAVENGING

The scavenging or removal of recoverable or recyclable materials from any facility or container in Hubbard County without written consent of the owner or operator shall be prohibited.

- A. Ownership of the separated recyclable materials set out by a customer shall be vested in the collector serving the person or facility who is recycling. It shall be unlawful and offense against this ordinance for any person other than the owner, lessee, or occupant of a residential dwelling or commercial/industrial business to pick up said separated recyclable

materials for any purpose

- B. Person or organizations other than a licensed or contracted collector may not collect recyclables unless they obtain written permission from the Solid Waste Administrator. Permission will be granted within the policy established by the County Board.

SECTION VIII JUNKYARD

Any person, persons, partnership or corporation seeking to establish, maintain or operate a junk yard in Hubbard County must first obtain a license from the Hubbard County Board of Commissioners to carry on such operation.

- A. Application for a junkyard operator's license shall be on forms furnished by the County, and submitted to the Solid Waste Office by November 1st of each year.
- B. Application shall include license fee, certificate of insurance and bond in the amount established by the County Board and naming the County as obligee
- C. Any junkyard operation must receive township board approval in those townships that have adopted land use regulations within Hubbard County. No applications will be considered for action by the Hubbard County Board of Commissioners unless local authorities with land use regulations have given approval and signed the application provided by the County.
- D. Application for a junkyard operator's license shall include the following
 1. Name and address of all owners, partnerships and operators.
 2. An operation plan which identifies handling and storage procedures for all waste including special waste.
 3. A safety plan which identifies emergency procedures and staff training.
 4. A security plan of the property.
 5. A plan specifying type and time line for achieving the screening of the site from view.
 6. An approved MNPCA Industrial storm water plan.
 7. Any other information the County may deem pertinent in making the determination to grant or deny the license.
- E. No person, partnership or corporation shall operate or cause to be operated or locate any junkyard on a site, after the date of enactment:
 1. within wetland areas
 2. within a flood plain
 3. within shore land areas
 4. with a water table within five (5) feet of the lowest elevation of the site
 5. Within 1,000 feet of an existing neighboring adjacent dwelling unit at the time of initial licensing
 6. without effective year around screening of the junkyard operation so as to effectively conceal it from public view. Planting which will effectively conceal the junkyard from view may be acceptable provided it is predominantly evergreen and used in conjunction with other temporary barriers to effectively conceal the site until the plantings provide adequate

screening

F. All materials shall be handled, transported and processed pursuant to applicable state and federal rule, regulations and best management practices for disposal of all solid or hazardous wastes or substances.

G. Hubbard County Solid Waste Management Office shall be notified ten (10) days prior to commencing any crushing operations.

H. Temporary crushing operations within Hubbard County are considered a junkyard operation and must comply with all requirements of a permanent operation if not operating within the boundaries of a licensed junkyard.

I A person, that has unlicensed and/or inoperable motor vehicles, and does not qualify as a junkyard, may store up to five (5) such vehicles provided they are stored upright and in a manner which will not create a nuisance or a hazard to the public health and safety. Storage of more than five (5) unlicensed/inoperable motor vehicles must be effectively screened from public view.

J. A body/repair shop or collector that does not qualify as a junkyard. Shall maintain the site in a neat orderly, non distracting fashion in areas visible by the public.

K. Any person, partnership or corporation that by definition has a junkyard upon notification by the Solid Waste management Office shall have ninety (90) days to effectively conceal the junk or otherwise bring the property into compliance with applicable rules and regulations or be subject to legal action under this ordinance.

L. Owner of land used primarily for farm/agricultural use are allowed to store farm type machinery outside. Machinery shall be stored in a manner which will not create a hazard to the public health and safety.

M. Unoccupied, non-habitable, non-livable, discarded, mobile homes, trailers or campers. One such unit is equal to five (5) abandoned motor vehicles.

SECTION IX SPECIAL WASTES.

Sub Section 1. **Waste tires.** The disposal of waste tires in or on the land is prohibited by Minnesota waste tire permitting rules Chapter 7002 and 9220.

- A. No more than ten (10) tires may be stored within the boundary of any residential parcel.
- B. No more than fifty (50) waste tires may be stored on any non-residential parcel except at a licensed Solid Waste facility.
- C. Exception to A & B may be allowed when waste tires are utilized outside of a building for decorative, recreational, structural, construction, or agricultural purposed where they comply

with the requirements of this ordinance

- D. Waste tires shall be confined to as small an area as practicable with individual piles not more than 20 feet high and a minimum of 12 feet separation between piles of tires.
- E. Waste tires shall be piled so as to minimize the accumulation of stagnant water
- F. Waste tires shall be stored a minimum of fifty (50) feet from the adjacent property line.
- G. The owner of the land or premises upon which waste tires are located in violation of this ordinance shall be obligated to remove them to a licensed solid waste facility upon notification from the Solid Waste Office
- H. A person, who in the ordinary course of a business, which removes tires from motor vehicles, may store no more than 100 waste tire on the premises.
- I. A person using waste tires for agricultural purposes may store no more than fifty (50) waste tires on the site of use.

Sub Section 2. **Major Appliances/White Goods.** A person may not dispose of major appliances in or on the land by Minnesota Statutes 115A: 9561 and rules administrated by the Agency.

- A. White goods may be stored at a licensed facility for the purpose of processing and recycling
- B. White goods shall be stored in a manner which will not create a nuisance, blight or hazard to public health and safety and shall have all non-magnetic latches disabled, capacitors removed and refrigerant gas evacuated before storage and or processing.
- C. No more than two (2) white goods may be stored outside within the boundaries of any residential parcel for more than ninety (90) days before they must be properly disposed of at a licensed facility.
- D. A retail appliance seller may store no more than ten (10) white goods outside within the boundaries of any non-residential parcel.

Sub Section 3. **Yard Waste.** Yard waste may not be disposed of in mixed municipal solid waste facility.

- A. Generators must manage yard waste by one of the following methods:
 - 1. Mulching it and spreading it on the ground
 - 2. Composting it on site; or
 - 3. Transport it to a permitted yard waste facility

Sub Section 4. **Motor Vehicle Batteries.**

- A. Motor vehicle batteries must not be disposed of in or on the land in accordance with Minnesota Statutes 115A.915 and rules administrated by the Agency.
- B. Motor vehicles batteries must be recycled and are considered a hazardous waste.
- C. Motor vehicle batteries must be stored upright in a plastic leak proof containers to prevent damage and leaking of acid.

Sub Section 5. **Used Oil** and filters

- A. A person may not knowingly in accordance to Minnesota Statute §115A:916, place motor oil, brake fluid, power steering fluid, transmission fluid, motor oil filters and motor vehicle antifreeze:
 - 1. in solid waste or in a solid waste management facility other than a recycling facility or a household hazardous waste collection facility;
 - 2. in or on the land, unless approved by the agency;
 - 3. in or on the waters of the State, in a subsurface sewage treatment system or in a storm water or waste water collection or treatment system

Sub Section 6 **Electronics'**

- A. A person may not knowingly place in mixed municipal solid waste an electronic product (E-waste) containing a circuit board or cathode-ray tube (CRT)
 - 1. Electronics may not be stored for more that one year at a facility.
 - 2. Electronics must be stored to keep out precipitation and prevent damage and the release of hazardous components.

SECTION X SOLID WASTE MANAGEMENT FUND.

- 1. Solid Waste Management Fund for operations provided by the County, a special account on the official books of the County is hereby created. All receipts from rates, fees, charges, special assessments collected pursuant to this ordinance, receipts from the sale of real or personal property pertaining to solid waste management systems, and the proceeds of all gifts, loans, grants in aids and issuance of bonds for the purpose of the system shall be credited to the Solid Waste Management Fund as authorized in Minnesota Statute § 400.08. ALL costs of acquisition, construction, enlargement, improvement repair, supervision, control, maintenance, and operation of the solid waste management system and facilities which are owned and operated by the County shall be charged to the Solid Waste Management Fund.
- 2. Owners, lessees, and occupants of property situated within the County shall pay for solid waste management services provided by the County or through its contractors, according to a schedule set by the County Board.
- 3. Owners, lessees and occupants of property shall be billed annually on their property tax statement, as a special assessment for solid waste management. The County Treasurer shall collect such charges as part of the property tax payment.

4. Users of facilities. Users of solid waste management facilities provided by the County, by and through its contractor, who are not owners, lessees, or occupants of property situated within the County or do not display a county taxpayer identification shall pay for the use of said facilities according to a schedule set by the County Board. Owners, lessees, occupants of property, demolition contractors or other users of the facilities, within the County, with or without a county taxpayer identification shall pay for the use of the facilities for the disposal of those special wastes for which the County has established an additional fee for the service. All such fees shall be paid for upon delivery unless other means of payment are approved by the Solid Waste Administrator prior to use of the facilities.
5. Fees. All fees and rates for licenses, permits and special assessment shall be set from time to time by the County Board. Unless otherwise specified all fees and permits are annual and are due January 1st of each year.

SECTION XI ENFORCEMENT

Sub Section 1: Any person within the County who violates this ordinance, or who shall permit such a violation to exist on the premises under their control, or who shall fail to abate the existence of the violation, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished therefore, as provided by law. A separate offence shall be deemed committed upon each day during or on which a violation occurs or continues.

Sub Section 2 In the event a violation exists or there is a threat of violation of this ordinance, the County Board or their designees may take appropriate actions to enforce the ordinance. Such action may include application for injunctive relief, action to compel performance, including revocation of license or other appropriate action in court if necessary to prevent, restrain, correct, or abate such violations or threatened violations. Such remedies are cumulative in nature.

Sub Section 3 If a person fails to comply with the provisions of this ordinance, the County may recover cost incurred for corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the County Board, the costs may be certified to the County Auditor as a special tax against the real property.

Sub Section 4 All property affected by this ordinance shall be subject to inspection by the County Board or their designees in accordance with MN Statutes and this ordinance. NO person shall refuse to permit inspection of any premise or interfere or resist the County or their designees, after presentation of credentials, in the discharge of their duty to protect the public health and safety.

Sub Section 5 The Hubbard County Board, upon recommendation of the Solid Waste Administrator, may declare a violation of this ordinance to be a public nuisance and order abatement to be made initially at County expense. The Solid Waste Administrator shall present by certified mail an itemized statement for corrective action expenses to the owner of the real property where such abatement has been conducted. Such expenses for corrective action may also be recovered in civil

action or the cost may be certified to the County Auditor as a special assessment against the real property as provided by law.

SECTION XII ADDITIONAL REQUIREMENTS AND PROVISIONS

Sub Section 1: **Waivers or Modifications.** Due to the great variability in the types of solid wastes and their existing and potential management methods, the Office may waive or modify the strict application of the provisions of this ordinance by reducing or waiving certain requirements when such requirements are unnecessary or impractical, provided such waiver or modification will not endanger the public health, safety, welfare or the environment. The Office may impose reasonable additional requirements through solid waste management activity or facility specific license conditions when deemed necessary to protect the public health, safety, welfare or the environment.

Sub Section 2: No modification or waiver may be granted if it would result in noncompliance with MN rules unless such modification or waiver has been granted by the agency.

Sub Section 3: Where conditions imposed by any provision of this ordinance are less restrictive than comparable conditions imposed by other provisions of this ordinance, or any other applicable law, ordinance, rule and regulation, the provision which established the higher standards for the promotion and protection of the public health, safety, welfare or the environment shall prevail

Sub Section 4: This ordinance shall not be constructed to hold the Office or County or any Officer or employee responsible there of for any damage to persons or property by reason of the inspection or reinspection authorized herein provided, or by reason of the approval or disapproval of equipment or licensing herein, nor for any action in connection with the inspection or control of solid waste or in connection with any other official duties.

Sub Section 5: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, said invalidity does not affect other provisions or application, and for this purpose the provisions of this ordinance are severable.

Sub Section 6: Nothing in this Ordinance shall preclude any local unit of government from adopting stricter regulations than this Ordinance.

Sub Section 7: This ordinance shall be effective after formal adoption by the County Board and publication according to law and filed with the County Auditor.

SECTION XIII DATE OF EFFECT

This Ordinance shall be in full force and effect from and after July 27, 2011, and after its approval, passage, and publication as provided by law.

THIS ORDINANCE ORDAINED AND ENACTED by the Board of County Commissioners of the County of Hubbard, State of Minnesota, on this July 6, A. D. 2011

ATTEST: /s/ Debbie Thompson
Debbie Thompson, Coordinator

BOARD OF COUNTY COMMISSIONERS
Hubbard County, Minnesota
/s/ Gregory D. Larson
Gregory D. Larson, Chairman



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ORDINANCE NO. 21

AN ORDINANCE REGULATING THE USE OF COUNTY PUBLIC PARKS IN THE COUNTY OF HUBBARD AND IMPOSING PENALTIES FOR VIOLATION THEREOF.

The County Board of Commissioners of the County of Hubbard, State of Minnesota, does hereby ordain as follows:

Section I. Definition.

Public parks or park when used herein shall mean real property owned or administered by Hubbard County, which is devoted to recreational use.

Section II. Defacing or Destroying Property Prohibited.

It shall be unlawful for any person to:

- a. Deface, destroy, diminish or impair the value or appearance of public or private property located within any public park in the County of Hubbard, including buildings, structures, signs, trees, shrubs or vegetation located thereon or growing therein.
- b. Litter, drop, dispose, abandon or cast bottles, cans, paper, waste, or trash, except in receptacles provided for such purpose, or deposit any household or yard waste of any kind or nature in or about any public park in the County of Hubbard, including the surrounding water area.

Section III. Operation of Motor Vehicles.

It shall be unlawful for any person to:

- a. Operate a motor vehicle of any kind in a dangerous or reckless manner or to cause damage or harm to any person, animal, or private or public property.
- b. Operate or park a motor vehicle in any park except on roads or in designated parking areas unless authorized by permit.
- c. Park or allow to remain parked a motor vehicle during which times the park is considered closed unless authorized by the Parks Department.
- d. Operate a motor vehicle in excess of 15 miles per hour.

Section V. Park Hours and Dates of Operation.

- a. Parks shall be open to the public daily between the hours of 6:00 am and 10:00 pm.
- b. It shall be unlawful for any person to remain in a park at any other time without the coverage of a Park Permit or when the park, or portion of the park, is otherwise designated for use outside of normal park hours as permitted by the Parks Department.
- c. Park facilities will be available for reservations from May through September or as weather permits.

Section VI. Open Fire Prohibited.

It shall be unlawful for any person to:

- a. Start a fire in any place in any park except in fireplaces or portable grills designed such use. All fires may be prohibited during extremely dry weather.
- b. Leave a fire unattended or fail to fully extinguish a fire; or
- c. Scatter or leave unattended lighted matches or other combustible materials.

Section VII. Unleashed Pets Prohibited.

It shall be unlawful for any person to:

- a. Permit a dog or other pet animal to run unleashed or untethered or at large in any park unless said dog or pet animal is part of an organized event where the dog or pet animal is a participant in the event. Leashes shall not exceed 10 feet in length.
- b. Fail to pickup & dispose of their pet's feces.
- c. Allow their dogs or pet animals on the swimming beach or in the water at the swimming beach.

Section VIII. Swimming or Wading in Certain Areas Prohibited.

It shall be unlawful for any person to:

- a) Wade or swim in an area in which signs have been posted prohibiting swimming or wading. In all areas wherein swimming and wading is permitted, the Parks Department shall have the authority to prohibit the use of such equipment as the department deems dangerous to persons engaged in swimming or wading and to prohibit such activities or conduct as the department deems dangerous or hazardous to those engaging in it or to other persons in a park. When a sign has been posted prohibiting the use of such equipment or engagement in such activities or conduct as may be specified therein, no person shall use such equipment or engage in such activities or conduct.

Section IX. Public Nuisances Affecting Public Peace and Safety Prohibited.

It shall be unlawful for any person to:

- a) Create, make or amplify any noise made by the playing of radios or other electronic devices or by yelling, screaming, swearing, threatening, assaulting, striking or fighting or quarreling, cursing or using obscene language or conversation, or any unusual noises which are considered a nuisance affecting public peace and safety.

Section X. Overnight Camping.

- a) Overnight camping is prohibited in any park except by Park permit.

Section XI. Use of Horses.

- a) The riding or driving of horses is prohibited unless allowed via a Park permit.

Section XII. Consumption and Possession of Alcoholic Beverages.

It shall be unlawful for any person to:

- a) Possess or consume intoxicating beer, wine, and/or liquor or non-intoxicating liquor during hours as established by the County Board in said parks.

Section XIII. Reservation of Picnic Shelters.

Reservations may be made for each picnic shelter with up to nine picnic tables for each shelter. A reservation fee may be charged for each shelter and this fee will be determined by the County Board. The County Board may waive the fee for non-profit organizations at its discretion. The shelters will not be able to be reserved on the following holidays: Memorial Day, July 4th, and Labor Day. Reservations can be made by contacting the Hubbard County Parks Department or by utilizing the online reservation system found on the Hubbard County website.

Section XIV. Reservation of Athletic/Recreational Facilities.

Reservations of athletic/recreational facilities may be made by submitting a Park Permit application with the Parks Department and paying the appropriate reservation fee. The Parks Department will review the

application and issue a permit if the request does not conflict with other park uses and is considered an appropriate use of park facilities.

Section XIV. Posting Areas.

The County Board shall have the authority to determine from time to time the areas in which other activities and conduct referred to in this ordinance shall be permitted or prohibited and shall post appropriate signs notifying persons in a park of the area in which the conduct or activities referred to herein are permitted or prohibited.

Section XV. Carrying or Transporting Weapons.

It shall be unlawful for any person to:

- a) Carry or transport a loaded firearm(s) within a Park or use any firearm, bow and arrow, air rifle, slingshot or other missile propelling weapon therein except as otherwise permitted by law.

Section XVI. Vendor Policy.

It shall be unlawful for any person to:

- a) Solicit, sell, or otherwise peddle any good, wares, merchandise, services, food or drinks in a park except as permitted by the County Board.
 - i. Requests from vendors to vend in a park will be submitted to the County Land Commissioner, or his designee, who will review them with the County Board.
 - ii. If the County Board approves the vendor's request, the vendor will be required to submit the required permits, licenses and insurance information to the Land Commissioner, or his designee for review and approval. The Land Commissioner, or his designee will notify the vendor, in writing to proceed.
 - iii. Vendors must comply with all Federal Laws relating to non-discrimination on the grounds of race, color, national origin, handicap or age.
 - iv. Vendors must provide the following to the Land Commissioner, or his designee for review:
 - A. Proof of liability insurance for automobiles.
 - B. Workers compensation insurance.
 - C. Product and completed operations insurance.
 - D. An original certificate of insurance for general liability. Limits on liability should be 1.5 million dollars per person 3 million dollars aggregate unless having umbrella coverage above and beyond that limit.
 - v. The County Board may require a vendor fee and damage deposit.

XVII Powers of Enforcement.

In addition to any other persons or law enforcement officers invested with the powers of law enforcement and arrest of any person for the violation of any provisions of this ordinance, all employees of the County of Hubbard whose duties are being discharged in a park shall have the power to enforce the provisions of this ordinance.

Section XVIII. Penalties.

In the event of violation or threatened violation of this Ordinance or any regulation property promulgated pursuant thereto, the County Board of Commissioners, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Hubbard County Attorney to institute such action. Whoever is guilty of violating this ordinance or any provisions of this ordinance is guilty of committing a misdemeanor. Each day that a violation continues shall constitute a separate offense.

Section XIX. Effective Date.

This Ordinance shall be in full force and effect from and after its approval, passage, and publication as provided by law.

THIS ORDINANCE ORDAINED AND ENACTED by the Board of County Commissioners of the County of Hubbard, State of Minnesota, on this 18th Day of August, 2020, and shall be effective September 5, 2020.

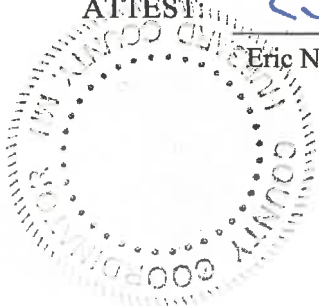
BOARD OF COUNTY COMMISSIONERS
Hubbard County, Minnesota

ATTEST:


Eric Nerness, Coordinator

BY:


Charlene Christenson, Board Chair



**HUBBARD COUNTY
ORDINANCE NO. 22**

An ordinance regulating pawnbrokers and second-hand goods dealers, and pawnbroker and second-hand goods permits.

The County Board of Commissioners of the County of Hubbard, State of Minnesota, does hereby ordain as follows:

SECTION I. JUSTIFICATION:

A. Purpose

The Hubbard County Board of Commissioners finds that adequate protection of public health, safety, and welfare requires that the business of pawnbrokers and dealers in second-hand goods be regulated and controlled.

B. Jurisdiction

The jurisdiction of this ordinance shall include all of Hubbard County except that area within the incorporated limits of the City of Park Rapids.

C. Compliance

The business of pawnbrokers and the business of dealers in second-hand goods in Hubbard County shall be in full compliance with this ordinance.

D. Abrogation

This section does not prohibit a town, town board, or a municipality from adopting or continuing in force regulations which are more restrictive than those required by this ordinance.

E. Severability/Saving Clause

The provisions of this Ordinance shall be severable, and the invalidity of any paragraph, sub paragraph, or subdivision therefore shall not make void any other paragraph, subparagraph, subdivision or any other part.

SECTION II. DEFINITIONS:

For the purpose of this ordinance, certain terms and words are hereby define. The present tense includes the future tense, the singular number shall include the plural and the plural the singular; the word shall is mandatory and the word may is permissive. When used in this section, the following words shall mean:

- A. Pawnbroker means a person who loans money on deposit or pledge of personal property, or other valuable thing , or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage or personal property, taking possession of the property or any part thereof so mortgaged.
- B. Second-hand Goods Dealer means a person engaged in the business of buying second-hand goods of any kind, including but not limited to coins, gold, silver, jewelry, metals, guns, tires, car batteries, and other automobile accessories, but excepting goods and merchandise taken as part or full payment for new goods and merchandise.
- C. Junk means old or scrap copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, rubber debris, waste, or junked, dismantled or wrecked farm or construction machinery or parts thereof, iron, steel and other old scrap ferrous or no-ferrous material.
- D. Board means the Hubbard County Board of Commissioners.

Section III. EXCEPTIONS:

The following business purchases shall not be covered by this section:

- A. The purchased of a motor vehicle as scarp or to be dismantled or destroyed where the certificate of title is or has been mailed or delivered to the Department of Motor Vehicles for cancellation pursuant to Minnesota Statute §168A.15.
- B. Used car sales involving vehicles with registered titles registered through the Department of Motor Vehicles.
- C. Purchased from occasional “Garage” or “Yard” sale of personal property conducted from a residence.
- D. Estate sale or farm auction held at decedent’s residence.
- E. Auction sales.
- F. The purchase of used clothing where no single item has a value of greater then \$50.00.
- G. Consignment sales from an established place of business.
- H. The purchase of used books where no single book has a value of greater than \$50.00.

- I. Any purchase of property from merchants, manufacturers, or wholesale dealers having an established place of business, or of goods purchased at open sale from any bank or from stock, or of goods purchased at salvage. Such property and goods must be accompanied by a bill of sale or other evidence of open or legitimate purchase, which must be shown to any peace officer.
- J. Recycling center, e.g. aluminum recycling center.
- K. Any purchaser of property at a flea market or swap meet sponsored by a local non-second-hand goods dealer or pawnbroker, or by a community group, and conducted on property with the consent of the owner of the property; where such purchaser is not otherwise required to be licensed by this section.
- L. Any purchase of junk materials as define in Section II(C).

Section IV. Licensing and Bonding of Pawnbrokers and Dealers in Second-Hands Goods

A. License Required

It is Unlawful for any person to engage in the business of pawnbroker without a pawnbroker's license under this section; nor in the business of dealer in second-hand goods without a second-hand goods dealer license under this section.

B. Bond Required

Before a license shall be issued, bonds in the following amounts and upon the following conditions shall be filed with the County Auditor:

- (a) Pawnbroker - \$2,000.00 Bond
- (b) Second-hand goods dealer - - \$1000.00 Bond
- (c) All such bonds shall require that the principal named therein will observe all laws in relation to pawnbrokers and dealers in second-hand goods, and conduct his business inconformity thereto, and that he will account for and deliver to any person legally entitled thereto any goods, wares, or merchandise, article or thing, which may have come into his hand through his business as such pawnbroker, or dealer in second-hand goods, or in lieu thereof will pay in money to such person or persons the reasonable value thereof.

C. License Application – Dealer in Second-hand Goods

Any applicant for license as a dealer in second-hand goods shall specify in his application the type of goods, wares, or merchandise which he desires to deal in the license, if issued, shall limit the dealer to the type of goods, wares, or merchandise specified in the application.

D. Business at Only One Place

Any license issued under this section shall authorize the licensee to carry on such business only at the place designated in such license, expecting the estimating of the value of goods for purchase and the picking up goods.

E. Criminal Record

No license shall be issued to any person previously convicted of a misdemeanor, gross misdemeanor or felony, provided that any applicant convicted of a misdemeanor may apply to the sheriff for waiver of this provision. The Sheriff may, at his discretion, grant such a waiver upon demonstration by the applicant that the conviction does not bear substantial relationship to the character or ability of the applicant to conduct the business of pawnbroking consistent with the provisions of this section. Any denial may be appealed to the Board.

F. License Fee

Any person applying for a license under this section shall make application to the Hubbard County Sheriff's Department and shall pay a license fee to be set by resolution of the Board. Said license shall be effective for a period not to exceed twelve (12) months. Renewal shall be on an annual basis, and each license shall be renewed on or before January 15 of each calendar year. For those pawnbrokers or second-hand dealers in goods in business before the passage of this ordinance, the license fee shall be paid within 15 days after the effective date of this ordinance.

G. Fee Schedule – Place of Payment

License fees may be subject to change by resolution of the Board. License fees shall be collected by the Hubbard County Sheriff for deposit with the Hubbard County Treasurer.

H. Posting of License

Every pawn shop, or second-hand dealer shall prominently post his/her license in a conspicuous location at his/her place of business.

SECTION V. RECORDS REQUIRED:

A. Records Required

On reporting forms prescribed by the Hubbard County Sheriff's Department, every person who shall be engaged in the business of pawn broker or dealer in second-hand goods shall maintain a records system, except as provided below, wherein it shall be written, in the English Language, at the time of each loan or purchase, an accurate account or description of the goods, article or other thing pawned, pledge, or purchased, the amount of money loaned or paid therefore, the time of the receipt of the same and description of the person pawning, pledging, or selling the same. Such records shall be made immediately upon taking the item or article into possession. The description of any item of personal property shall include serial numbers, make, model, year or such other identification numbers where possible. The description of a person shall include compliance with any of the alternative identification requirements of subparagraph D of this section.

Purchases by a second-hand goods dealers of individual goods or items priced at less than a \$20.00 value are exempt from the above reporting requirements, but shall be reported at such times when the cumulative total of all such sales exceeds \$50.00.

B. Reports to the Sheriff

Every pawnbroker or dealer in second-hand goods shall make available to the Sheriff's Department, twice per month, on the first and sixteenth of the month, a legible and correct copy of the records required by subparagraph A of this section of all personal property or other valuable things received, deposited or purchased during the preceding fifteen days, together with the time when received or purchased and a description of the person or persons from whom left in pledge or from whom the same were purchased. Such records shall be mailed to the Sheriff's Office on the first and the sixteenth of the month, or in the event the first or sixteenth falls on a weekend or holiday, on the following business morning of that week.

C. Receipts Required

On receipt books prescribed by the Hubbard County Sheriff's Department, every such pawnbroker or dealer in second-hand goods, purchasing or receiving in deposit for a loan any article or personal property shall give to the person selling or depositing such article or personal property a receipt with a description of the item.

D. Identification Requirements

1. Each person pawning, pledging, or selling items in an establishment licensed pursuant to this section shall identify himself/herself as provided herein to the licensee or licensee's agent accepting such pawn, pledge, or sale. Neither the licensee nor any of his/her agents shall transact any business with any person who fails to identify himself/herself as provided herein. Identification shall be made as follows:
 - a. By showing a Minnesota driver's license or non-qualification certificate which was duly issued to the person presenting it by the state of Minnesota. The licensee or agent shall stamp or record the information contained on face of said driver's license or non-qualification certificate on the record required by subparagraph A of this section; or
 - b. In the event the person has no Minnesota driver's license or non-qualification certificate, then by a showing of some other form of identification issued to him/her by a governmental body or a recognized organization which shows either his/her picture or a physical description of him/her or both. The licensee or agent shall record the type of identification, and any identifying number on the identification, and the name and physical description on the identification in the record required by subparagraph A of this section; or
 - c. By a statement by the licensee that said person is personally known to the licensee and a recording of his/her full name and date of birth.
 2. The licensee or licensee's agent transacting the pawn, pledge or sale shall have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification present with the physical features and signatures of the person presenting such identification and shall not transact any business with any person who appears to be presenting false identification.
- E. The provisions of this section shall not apply to dealers in precious metals licensed under Minnesota State Statute, insofar as they purchase precious metal bouillon, ingots, or coins.

SECTION VI. HOLDING AND REDEMPTION PERIODS:

A. Redemption Period

Any person pledging an article shall have 45 days to redeem the same before the pledge becomes forfeitable.

B. Sheriff's Order to Hold Property

Whenever the Sheriff or any member of the Sheriff's Department shall have probable cause to suspect that property listed pursuant to Section V shall be stolen property or constitute evidence of a crime, or that possession of such property is criminal or that such property shall constitute evidence that any individual has committed a crime, they shall notify such dealer or dealers not to sell any property so received on deposit or purchased by them, or permit the same to be redeemed, for a period of at least 48 hours in addition to the time period provided for in subparagraph A of this section, not counting Saturday, Sunday, or holidays.

SECTION VII. UNLAWFUL ACTS

A. Dealing with Minors, etc.

It is unlawful for any pawnbroker or dealer in second-hand goods to purchase or receive on deposit any personal property, goods, wares, merchandise, article or thing, from persons of unsound mind or intoxicated persons, or from persons under 18 years of age, without the written consent of his or her parent or guardian.

B. Minors; Prohibitions

No person under the age of 18 years shall sell, pawn, or pledge any personal property or other valuable thing with any person licensed to do business under this section. It is unlawful for any person under the age of 18 years to represent to any person licensed under the provision of this section, at the time of his or her selling, pawning, attempting to pawn, or pledging of any personal property, that he or she is 18 years of age or older.

C. Misconduct of Pawnbrokers

It is unlawful for any licensed pawnbroker to:

1. Lend money or on a pledge at a rate of interest above that allowed by law;
or
2. Have goods in his possession and refuse to permit a law enforcement officer to examine them during usual business hours; or

3. Sell pledged goods before the time to redeem has expired; or
4. Make a loan on a pledge to a person under lawful age, without the written consent of his or her parent or guardian.

D. Misconduct of Junk or Second-hand Dealers

1. Have goods in his possession and refuse to permit a law enforcement officer to examine them during usual business hours; or
2. Purchase property from a person under lawful age, without the written consent of his or her parent or guardian.

SECTION VIII. ENFORCEMENT

A. Enforcement Authority

This ordinance shall be administered and enforced by the Hubbard County Sheriff's Department, which is hereby designated the enforcing authority.

B. Misdemeanor Penalty

Any person, firm, or corporation who shall violate any of the provisions hereof or who shall make any false statement in any license or record required to be submitted under the provisions hereof, shall be guilty of a misdemeanor. All fines and violations shall be deposited with the Hubbard County Court Administrator's Office.

C. Suspension and Revocation of License

1. Any license issued pursuant to this Ordinance may be suspended for up to sixty (60) days or revoked for good causes by the Board. Written notice shall be given to the licensee of the Board's intent to suspend or revoke a license. A licensee shall have ten (10) days from the receipt of said notice to appeal the proposed suspension or revocation to the Board for a hearing of the matter before the full board at a regular or special meeting of the Board. If appeal is timely noted, all action shall be stayed pending the hearing. Written notice of the hearing shall be served upon the licensee at least twenty-one (21) days prior to the date of the hearing. Any licensee whose license is suspended or revoked may appeal from such order to the District Court. Such appeal shall be taken by service of the written notice hereof upon the Board within ten days after service upon the licensee of the order appealed from and by filing with the District Court Administrator, within ten days after service, the notice of appeal with proof of service thereof upon the Board. An appeal will not stay implementation of the Board's order.

2. For the purpose of this section, “good cause” shall include, but not limited to:
 - a. Conviction of licensee or any of his employees of any crime relating to the operation of a pawnbroking business.
 - b. Violations by the licensee or his employees of any of the provisions of this section or any other section of the county ordinance or statute relating to the operation of a pawnbroking business or second-hand goods business.
 - c. Failure to cooperate fully with any lawful law enforcement investigation.
 - d. Falsely stating any material fact on the license application.
 - e. Submitting a false in incomplete record to the Sheriff.

SECTION IX. ADMENDMENT:

This ordinance may be amended by the Hubbard County Board of Commissioners whenever the public necessity and general welfare requires such amendment. The Hubbard County Board of Commissioners shall conduct a public hearing in the manner prescribe by M.S.A. 375.51.

SECTION X. EFFECTIVE DATE:

This ordinance shall be in full force and effect from and after its approval, passage, and publication as provided by law.

THIS ORDINANCE ORDAINED AND ENACTED by the Board of County Commissioners of the County of Hubbard, State of Minnesota, on this 6th day of May, A.D. 1992.

**COUNTY OF HUBBARD
ORDINANCE NO. 26**

AN ORDINANCE PROVIDING FOR THE FILING
OF SURVEYS IN HUBBARD COUNTY

THE HUBBARD COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS:

Section 1: This ordinance is adopted pursuant to Minnesota State Statutes 389.08 and 375.51.

Section 2: Any licensed land surveyor who shall perform a boundary survey or a metes and bounds survey of a tract of land situated all or partly within Hubbard County, including Municipalities for any individual or corporation, and in the course of services supply a Certificate of Survey to their client, shall file a true and correct copy of said survey in the office of the County Surveyor.

Section 3: Standards for Certificate of Survey.

1. Drawing size shall be large enough to show detail. Letter size shall be no smaller than 0.08 of an inch.
2. Designate "Certificate of Survey" at top of drawing.
3. Name(s) of record owner(s) of property.
4. Names of adjacent owners.
5. Metes and bounds (legal) description of all parcels surveyed with a tie to a public land monument or other legal corner.
6. If more than one parcel, designation of each parcel by letter or number. Ex. Parcel 1, Parcel A, etc.
7. All monuments on the survey drawing shall be identified found or set and shall describe the type of monument. All monuments set shall be a ½ inch iron pipe or a ½ inch re-bar and shall be identified with the Land Surveyor's registration number.
8. Basis of bearing for survey. Ex. Assumed, celestial, observation, record, etc.
9. All parcels shall show square footage and acreage.
10. North arrow.
11. Scale bar.
12. Bearing lines to the nearest angle.
13. Length of lines to the nearest 0.01 feet of distance.
14. Date of Survey.
15. Designation of known easements on drawing.
16. Survey line on meandering water courses shown as dashed lines and identified.
17. Signed Surveyors Certificate showing name and license number of Registered Surveyor.

Section 4: All surveys shall be filed within thirty days of completion.

Section 5: All surveys filed in the office of County Surveyor, pursuant to this ordinance, shall be public record and shall be available for inspection by any person during regular business hours.

Section 6: The manner of filing said surveys in the Office of the County Surveyor shall be determined by the County Surveyor, as approved by the Board of County Commissioners.

Section 7: The Hubbard County Board of Commissioners shall bear ultimate responsibility for the administration and enforcement of this ordinance. Any violation of this Ordinance may be considered a penal offence constituting a misdemeanor and could be subject to a \$700.00 fine and /or 90 days in jail.

Section 8: This ordinance shall be effective upon its passage, approval and publication, as provided by law.

Passed by the Board of Commissioners this 16th day of July, 1997.

Tobacco Ordinance #27

An ordinance relating to the sale, possession, and use of tobacco, tobacco products, and tobacco related devices in the county and to reduce the illegal sale, possession, and use of such items to and by minors.

The Hubbard County Board Ordains:

Section 100. Purpose. This ordinance 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 of Minnesota in regard to preventing young people from starting to smoke as stated in Minnesota Statute §144.391.

Section 200. Definitions and Interpretations.

Subd. 1 Tobacco or Tobacco Products. "Tobacco" or "Tobacco products" shall mean 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 such manner as to be suitable for chewing, sniffing, or smoking.

Subd. 2 Tobacco Related Devices. "Tobacco related devices" shall mean 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.

Subd. 3 Self-Service Merchandising. "Self-Service Merchandising" shall mean open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 4 Vending Machine. "Vending Machine" shall mean 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.

Subd. 5 Individually packaged. "Individually packaged" shall mean 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 or snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

Subd. 6 Loosies. "Loosies" shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7 Minor. "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.

Subd. 8 Retail Establishment. "Retail Establishment" shall mean 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.

Subd. 9 Moveable Place of Business. "Moveable Place of Business" shall refer 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.

Subd. 10 Sale. A "sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 11 Compliance Checks. "Compliance Checks" shall mean 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 ordinance.

Section 300 License. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the county. The issuance of a license issued under this ordinance 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.

Subd. 1 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 properly completed application, the Auditor shall forward the application to the County Board for action at its next regularly scheduled meeting. Application should include mandatory disclosure of any prior violations or penalties if application is a renewal.

Applicant must meet the following requirements:

- A. The applicant is at least 18 years of age.
- B. The applicant has not 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.
- C. The applicant has not had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding twelve months of the date of application.
- D. The applicant must accurately provide any information required on the application.
- E. The applicant is not prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

Subd. 2 Action. The Hubbard County Board may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary.

Subd. 3 Term. All licenses issued under this ordinance shall be valid for one calendar year from January - December with first time licenses prorated.

Subd. 4 Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.

Subd. 5 Transfers. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be allowed.

Subd. 6 Moveable Place of Business. No license shall be issued to a moveable place of business.

Subd. 7 Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

Subd. 8 Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application.

Section 400. Fees. No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be set by the County Board.

Section 500. Prohibited Sales. It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

- A. To any person under the age of eighteen (18) years.
- B. By means of any type of vending machine, except as may otherwise be provided in this ordinance. (**Note:** See Section 600, "Vending Machines".)
- C. By means of self-service methods, loosies as defined in Section 200 of this ordinance or 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.
- D. 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.

Section 600. Vending Machines. It shall be unlawful for any person licensed under this ordinance 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.

Section 700. Self-Service Sales. 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. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this ordinance is adopted shall comply with this Section within 180 days. The FDA contains an exemption for stores where minors are, at all times, prohibited from entering. The State law further restricts this exemption to stores that generate ninety (90) percent or more of their revenues from the sale of tobacco and tobacco related products.

Section 800. Responsibility. All licenses under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the county from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

Section 900. Compliance Checks and Inspections. All licensed premises shall be open to inspection by the local law enforcement or other authorized county official during regular business hours. At the discretion of local law enforcement, the county shall conduct unannounced compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated county personnel. Minors used for compliance checks shall not be charged for the

unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age for which he or she is asked.

Section 1000. Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this ordinance.

Subd. 1 Illegal Sales. It shall be a violation of this ordinance for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor,

Subd. 2 Illegal Possession. It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 3 Illegal Use. It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

Subd. 4 Illegal Procurement. It shall be a violation of this ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 5 Use of False Identification. It shall be a violation of this ordinance for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Section 1100 Violations.

Subd. 1 Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

Subd. 2 Hearings. If a person accused of violating this ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

Subd. 3 Hearing Officer. County Board Representative on the Planning Commission shall serve as the hearing officer.

Subd. 4 Decision. If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 1200 of this ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer

finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

Subd. 5 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.

Subd. 6 Misdemeanor Prosecution. Nothing in this Section shall prohibit the county from seeking prosecution as a misdemeanor for any alleged violation of this ordinance. If the county elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

Subd. 7 Continued Violations. Each violation, and every day in which a violation occurs or continues, may constitute a separate offense.

Section 1200 Penalties.

Subd. 1 Licensees. Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$75 for a first violation of this ordinance; \$200 for a second offense at the same licensed premises within a twenty-four month period; and \$250 for a third or subsequent offense at the same location within a twenty-four month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

Subd. 2 Other Individuals. Other individuals, other than minors regulated by subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an administrative fee of \$50.

Subd. 3 Minors. Minors found in unlawful possession of, or who unlawfully purchased or attempts to purchase, tobacco, tobacco products, or tobacco related devices, shall be cited and referred to Tobacco Offender Diversion Program.

Subd. 4 Misdemeanor. Nothing in this Section shall prohibit the county from seeking prosecution as a misdemeanor for any violation of this ordinance.

Section 1300. Exceptions and Defenses. Nothing in this ordinance 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 ordinance for a person to have reasonably relied on proof of age as described by the State law.

Section 1400 Severability and Savings Clause. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or effect the validity and enforceability of any other section or provision of this ordinance.

Section 1500 Effective Date. This ordinance shall take effect upon approval by county board and publication in official newspaper.

Adopted and passed by the Hubbard County Board of Commissioners the 6th day of May, 1998.

/s/ Dick Devine
Chairman, Hubbard County Board of Commissioners

ATTEST: /s/ Pam Heeren
Auditor, Hubbard County

**HUBBARD COUNTY
ORDINANCE NO. 29**

An Ordinance regulating alarm monitoring control systems and alarm system permits.

The County Board of Commissioners of the County of Hubbard, State of Minnesota, does hereby ordain as follows:

SECTION I: JUSTIFICATION:

The Hubbard County Sheriff's Department responds to hundreds of false alarms each year, a level that places intolerable burdens upon the time and resources of the Sheriff's Department. These many false alarms also create an increased level of risk on the safety of the responding officers and to the public as well. Therefore, the justification of this Ordinance is to reduce the high level of risk and expense by reducing the frequency of occurrence of these false alarms.

SECTION II: COVERAGE:

This Ordinance shall apply to all types of alarms, including, but not limited to: radio-enhanced, direct line, central station and automatically dialed fire, intrusion and robbery alarms.

SECTION III: DEFINITIONS:

1. "ALARM AGENT" shall mean any person who is employed by an alarm business, either directly or indirectly, including an owner, corporate officer, or director, whose duties include any of the following: selling, maintaining, leasing, servicing, repairing, altering, replacing, moving, or installing on any building, place, or premises, any police alarm system, central station system, or burglar alarm system.
2. "ALARM BUSINESS" shall include the business of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing, any police alarm system
3. "ALARM SYSTEM" refers to a burglar alarm system, a central station system or a police alarm system.
4. "ALARM USER" shall mean any person as defined herein, using the services of a police alarm system, central station system, or burglar alarm system.

5. "ANSWERING SERVICE" refers to a telephone answering service that receives signals from any alarm system and thereafter immediately relays the message by live voice to the Communications Center of the Sheriff's Department.
6. "AUTOMATIC DIALING DEVICE" refers to an automated alarm system which sends a prerecorded voice message or coded signal indicating the existence of the emergency situation which the alarm system is designed to detect.
7. "BURGLAR ALARM SYSTEM" refers to an alarm system signaling an entry or attempted entry into an area protected by the system, but which system is not connected to a police alarm or central station system.
8. "CENTRAL STATION" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits, and where guards are maintained continuously to investigate signals.
9. "CENTRAL STATION SYSTEM" means a system in which the operation of electrical protection circuits and devices are signaled automatically to, recorded in, maintained, and supervised from, a central station having operators and security personnel on duty at all times.
10. "DIRECT LINE" means a telephone line leading directly from a central station to the Communications Center of the Sheriff's Department that is used only to report emergency signals on a person-to-person basis.
11. "FALSE ALARM" means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system, or of his employee or agents, to which a police officer has been dispatched, where an emergency situation does not exist. Such terminology does not include alarms caused by hurricanes, tornadoes, earthquakes, lightning, power failure, damage to power lines, or other such severe weather conditions.
12. "EXCESSIVE ALARMS" shall mean six (6) or more false alarms signaled by any police alarm system within a calendar year.
13. "PERSON" shall mean any individual, partnership, corporation, association, or other entity.
14. "POLICE ALARM SYSTEM" shall mean any device designated for the detection of an unauthorized entry on premises or for alerting others of the commission of an unlawful act, or both, and, when actuated, emits a sound or transmits a signal or message, which system is connected to or monitored by the Hubbard County Sheriff's Department.

15. "PRIMARY TRUCKLINE" means any telephone line leading directly into the Communications Center of the Sheriff's Department that is for the purpose of handling emergency calls on a person-to-person basis, and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company(s) and covering the service area(s) within the Sheriff's Department jurisdiction.

16. "PROPRIETARY SYSTEM" means an alarm system sounding and/or recording alarm and supervisory signals at a control center located within the protected premises, the control center being under the supervision of the proprietor of the protected premises. If a proprietary system includes a signal line connected directly to the Sheriff's Department Communications Center, a central station, or answering service, it thereby becomes an "Alarm System" as defined in this Ordinance.

17. "SPECIAL TRUCKLINE" means a telephone line leading directly into the Communications Center of the Sheriff's Department and having a primary purpose of handling emergency signals or messages originating, either directly or through a central location, from automatic dialing devices.

SECTION 4: PERMIT REQUIRED - EXCEPTIONS:

It shall be a misdemeanor for any person to use an alarm system, without first complying with the provisions of this article and without first obtaining the proper permit as required by this article. The provisions of this article shall not be applicable to audible alarms affixed to motor vehicles, as allowed by law, or to the County of Hubbard, its officers, agents, and employees, in their official capacity.

SECTION 5: APPLICATION FOR PERMIT:

Applications for permits required under this article shall be made to the Sheriff of Hubbard County on forms provided by the Sheriff's Office. Each application for a permit shall be accompanied by the correct one time administration fee as defined herein.

Along with the one time administration fee, the user must also submit proper alarm registration information to comply with this Ordinance.

The Hubbard County Sheriff shall have the authority to deny, suspend, cancel any permit, or require inspection of a system, after an investigation reveals abuse or nonpayment of fees or the failure to submit proper alarm information.

The application for a alarm user permit shall state the name, address and telephone number to the applicants property serviced by a Police Alarm System or

by a Central Station System, and the name, address and telephone number of the applicants residence, if different. If the applicants Police Alarm System or Central Station System is serviced by an alarm business, the application shall include the name, address and telephone number of such business. The application may include such other information, as the Sheriff shall find necessary to determine the qualifications of the applicant for such permit.

SECTION 6: PERMIT FEES:

The fees for the permits required by this Ordinance shall be established by resolution by the Board of Commissioners of the County of Hubbard.

SECTION 7: ISSUANCE OF PERMITS:

The Sheriff shall approve the application and shall issue a permit within five (5) days of the receipt of the completed application forms of the alarm user, if upon investigation, there shall appear no reason to deny the permit as provided in this Ordinance.

Each alarm user shall maintain a current information card with the Sheriff's Department, containing his/her name, address, and telephone number, as well as the name, address, and telephone number of a person or persons who can render service to the alarm at any hour of the day or night.

(Each alarm user shall immediately inform the Sheriff of any and all changes in the information on file with the Sheriff's Department regarding such permit).

SECTION 8: DENIAL OF PERMIT:

An application for an alarm user permit shall be denied if the applicant willfully falsifies any information on the application, or if the alarm system fails to meet the qualifications of this Ordinance.

SECTION 9: SUSPENSION OR REVOCATION OF PERMIT:

An alarm user permit shall be revoked or suspended by the Sheriff for such period of time as decided, for any reason for which the granting of such permit might be lawfully denied, or for a violation of an provision of the Ordinance or of any rule or regulation made in implementation thereof by the Sheriff under SECTION 11.

SECTION 10: APPEAL FROM DENIAL, SUSPENSION, OR REVOCATION:

Every applicant for or holder of an alarm user permit shall have the right of appeal

to the Board of County Commissioners upon a denial of such application; upon a suspension or revocation of such permit; or a determination of additional permit charges under SECTION 16.

SECTION 11: RULES AND REGULATIONS:

The Sheriff may prescribe any of the following:

- (1) Minimum standards for the quality, efficiency, and effectiveness of police alarm systems.
- (2) Specific provisions relating to testing procedures, and
- (3) Specific provisions relating to the skill and competency of the applicant to be a permittee.

He is authorized to inspect or cause to be inspected, the premises whereon the alarm system is located. He shall have the power to make and enforce such reasonable rules and regulations as may, in his discretion, be necessary to implement the provisions of this Ordinance.

SECTION 12: AUTOMATIC DIALING DEVICES - INTERCONNECTING TO PRIMARY TRUNK-LINES:

- (1) No automatic dialing devices shall be interconnected to a primary trunk-line after the effective date of this Ordinance.
- (2) Within ninety (90) days after the effective date of this Ordinance, all automatic dialing devices interconnected to a primary trunk-line shall be disconnected therefrom. The owner or lessee of such device shall be responsible for having the device disconnected within the ninety- (90) daytime period prescribed herein.
- (3) Verified hearing-impaired persons shall be exempt from the provisions of this Section and may use direct dial recorded message alarms.

SECTION 13: AUTOMATIC DIALING DEVICES - INTERMEDIARY SERVICES:

- (1) Persons owning or leasing an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:
 - (a) A central station;
 - (b) A modified central station; or

(c) A licensed answering service.

(2) The relaying of messages by intermediary services to the Sheriff's Department may be made over a special trunk-line, at the discretion of the Sheriff.

(3) This Section shall apply only to those automatic dialing services interconnected to the Communications Center of the Sheriff's Department, or to other County Offices.

SECTION 14: POSSESSION, DISPLAY, AND SURRENDER OF PERMITS:

The alarm business permit and alarm user permit must be conspicuously displayed at the alarm location, and shall be displayed upon request by any police officer. Any permit hereunder shall be surrendered to the Sheriff upon suspension or revocation.

SECTION 15: PROHIBITIONS:

It shall be unlawful for anyone to activate any alarm system for the purpose of summoning police, except in the event of what is reasonably believed to be an unlawful act and/or unauthorized entry on premises. Whenever a police alarm system has been designed and commonly understood to alert others of the commission of a particular crime, it shall be unlawful for anyone to activate such police alarm for the purpose of summoning police, except in the event of what is reasonably believed to be such particular crime.

It shall be unlawful to install or use an alarm system, which, upon activation, emits a sound similar to sirens in use on emergency vehicles or for civil defense.

SECTION 16: ADDITIONAL PERMIT CHARGES:

(1) Any alarm user who maintains or has an alarm system which signals a false alarm, which, if caused by the negligence of the owner or lessee of an alarm system or of his agents or employees, shall be guilty of a petty misdemeanor, and upon conviction, shall be punishable by a penalty, payable to the Hubbard County Treasurer, to be credited to the Sheriff's Department budget, for each false alarm in the excess of two (2) per license year. The penalties outlined by this Ordinance shall be established by resolution by the Board of Commissioners of the County of Hubbard.

Any false alarms over six (6) per license year shall be considered excessive and shall result in the suspension of the user's alarm permit, and said Sheriff's Department shall no longer respond officers to the alarm location until such time as the alarm system has been repaired, modified, or maintained to remedy the

problems with the system.

Penalties shall be payable within seven (7) calendar days of notification to avoid suspension of the alarm user's permit and/or possible, criminal penalties.

(2) Any alarm business which sells, leases, maintains, services, repairs, or installs any alarm system which a false alarm which is caused by mechanical failure, malfunction, or improper installation, shall be guilty of a petty misdemeanor, and upon conviction shall pay a penalty, payable to the Hubbard County Treasurer, to be credited to the Sheriff's Department budget, as follows:

(a) For each false alarm in the excess of two (2) per license year, per location, as set by the Board of Commissioners per section 16(1).

(b) Penalties shall be payable within seven (7) calendar days to avoid possible criminal penalties.

(3) The Hubbard County Sheriff's Department shall keep a record of all false alarms received by the Department and the explanation for such false alarms. These records shall be available for inspection by alarm users and alarm businesses.

(4) Within seventy-two (72) hours of any false alarm, the alarm user shall submit, to the Hubbard County Sheriff's the false alarm and the measure(s) taken to remedy the problem. If certain measures are to be taken to remedy a problem(s), the statement shall state the amount of time necessary to remedy the problem(s).

SECTION 17: RESPONSIBILITY:

Except for false alarms occurring in the first thirty- (30) days of operation of an alarm system, the alarm user and alarm business shall be subject to the requirements and penalties provided herein for false alarms occurring in the user's alarm system.

SECTION 18: DISPUTES:

All disputes or questions arising under this Ordinance should be forwarded to the Sheriff of Hubbard County, who shall investigate the matter and reach a conclusion thereon. Such final conclusion shall terminate the dispute brought before the Sheriff, subject to such right of appeal as afforded herein.

SECTION 19: LIMITATION OF LIABILITY:

The County of Hubbard shall be under no duty or obligation to a permittee or any

other person hereunder, by reason of any provision of this Ordinance, or the exercise of privileges of a permittee hereunder, including, but not limited to, any defects in a police alarm system, or any delays in transmission or response to any alarm.

SECTION 29: SEVERABILITY:

It is hereby declared to be the intention of the County of Hubbard that the several sections of this Ordinance are separable in accordance with the following:

If any court of competent jurisdiction shall adjudge any section of this Ordinance to be invalid, such judgment shall not affect any other sections of this Ordinance, not specifically included in said judgment.

SECTION 21: EFFECTIVE DATE:

This Ordinance shall be in full force and effective July 1, 1999 based on its approval, passage, and publication as provided by law.

THIS ORDINANCE ORDAINED AND ENACTED by the Board of County Commissioners of the County of Hubbard, State of Minnesota, on this 17th day of March, 1999.

BOARD OF COUNTY
COMMISSIONERS
Hubbard County, Minnesota

By: /s/ Richard L. Devine, Chairman

Attest: /s/ Jack Paul

Enhanced 911 Ordinance Amendment #2

An ordinance establishing and regulating the naming and numbering of streets and addresses in Hubbard County.

The County Board of Hubbard County ordains:

I. General Provisions

- A. **Title.** This Ordinance from the date of its passing shall be known as the Enhanced 911 Ordinance.
- B. **Scope.** This Ordinance shall be applicable to all property located in Hubbard County.
- C. **Legal Authority.** This Ordinance is enacted pursuant to Minnesota Statutes § 145A.05, Subd. 1; 145A.10, Subd. 7; and 403.07.
- D. **Purpose.** The purpose of this Ordinance is to assure that every locatable structure in Hubbard County is assigned an address that reflects a known location, and that public and private roads, when appropriate, are assigned names according to the standard road naming convention, in order to assist the provision of public safety and emergency services to all persons in Hubbard County, regardless of place of residence or location.

II. Definitions

Approach. Approximately the first 24 feet of traveled surface from the edge of a named road (i.e. over a culvert in some cases.)

Driveway. The traveled surface between an approach and locatable structure.

E911 Address. A unique identifier issued by Hubbard County which meets Enhanced 911 and United States Postal requirements.

E911 Road Signs. A unique road name which meets the Enhanced 911 road naming convention.

Emergency Services. Activities including, but not limited to, fire, ambulance, and law enforcement services.

Enhanced 911 Service. The use of selective routing, automatic location identification or local location identification as part of local 911 emergency telephone service.

Environmental Services Department. The Hubbard County Environmental Services Department.

Automatic Location Identification (ALI). The process of locating the origin of calls to an E911 system by means of a periodically updated database located and maintained by a designated ALI service provider.

Highway Department. The Hubbard County Highway Department.

Locatable Structure. All structures that serve as a residence, whether permanent or seasonal, a commercial building, or any other structure that requires an address for emergency services.

Location. A point on a map that reflects the current Hubbard County E911 addressing scheme.

Public Agency. Any unit of local government or special purpose district located in whole or in part within this state which provides or has authority to provide fire fighting, police, ambulance, medical or other emergency services.

Public Safety Agency. A functional division of a public agency that provides fire fighting, police, medical or other emergency services, or a private entity that provides emergency medical or ambulance services.

Public Safety Answering Point. A communications facility operated on a 24 hour basis that first receives E911 calls from persons in an E911 service area and that may, as appropriate, directly dispatch public safety services or extend, transfer or relay E911 calls to appropriate public safety agencies.

III. Addressing Requirements

A. **Owner Responsibility.** Following adoption by Hubbard County of an E911 Addressing System, every owner of real property in Hubbard County shall assure that each locatable structure on the property be assigned an E911 address by the County and that the public safety answering point shall be provided with all appropriate attribute data for that E911 address. The primary approach leading to a locatable structure must be installed prior to submitting an E911 address application or additional fees may be charged.

1. Every owner of real property containing a locatable structure that has been assigned an E911 address shall display the number in a location and manner in accordance with the requirements of the Hubbard County E911 Addressing System.
2. Hubbard County shall provide public notice of recommended size and posting location for the E911 address numbers as well as direct notice to each property owner along with written notification of a new E911 address number. Hubbard County shall provide and place the initial address number signs at each E911 address. The property owner at each E911 address will be charged for the cost of the sign and installation. Once installed, the sign becomes the property and responsibility of the landowner and shall be properly maintained

per County E911 sign policy at the initial location such that the structure may be located easily by emergency personnel.

3. Any locatable structure found to be lacking an E911 address will be assigned an address by the County and the landowner will be invoiced for the applicable fee. Failure to pay the fee by the end of the current tax year will result in additional fees and all fees will then be certified to a landowner's property taxes for assurance of payment.

B. Notice of New Construction. Every owner of real property in Hubbard County on which a locatable structure is erected or placed after the effective date of this Ordinance shall notify the Hubbard County Environmental Services Department and shall obtain an E911 address to be displayed as required herein.

C. Developer Responsibility. The Hubbard County Board of Commissioners as advised by the Hubbard County Planning Commission may promulgate reasonable rules to require all plats, planned unit developments (PUDs), and administrative subdivisions requiring a new road, and conditional use permit applications to conform to the E911 addressing requirements and road naming conventions.

D. Telephone Utility Data. Following implementation of the County E911 System, each public utility providing telephone service shall provide current customer names, service addresses, and telephone numbers to each Public Safety Answering Point or designated ALI service provider within the E911 system and shall update the information periodically as required by Minnesota Statute § 403.07, Subd.3.

Each telephone utility providing telephone service in Hubbard County shall require each owner of a locatable structure in Hubbard County who applies for new telephone service installation to provide an E911 address to said telephone utility provider.

E. Electric Utility Data. Following implementation of the County E911 System, each public utility providing electrical service in Hubbard County shall require each owner of a locatable structure in Hubbard County who applies for new electric service installation to provide an E911 address to said electrical utility provider.

F. Fees. The Hubbard County Board of Commissioners is hereby authorized to assess reasonable fees for new address signs and posts, sign replacement, and other items related to the administration of this Ordinance.

IV. Administration

This Enhanced 911 Ordinance shall be administered by the Hubbard County Environmental Services Department with field assistance provided by the Hubbard County Highway Department.

V. Miscellaneous

No person may alter, deface, or remove any sign placed in accordance with this ordinance. All road signs and associated hardware are the property of Hubbard County. Any repair or replacement shall be coordinated by Hubbard County. Missing or damaged signs shall be reported to the Hubbard County Highway Department or Environmental Services Department immediately upon any person noticing such.

VI. Violation

In the event of violation or threatened violation of this Ordinance, the County Board of Commissioners, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Hubbard County Attorney to institute such action.

VII. Severability

This Ordinance and the various parts, sentences, paragraphs, sections, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is judged to be unconstitutional or otherwise invalid for any reason by a court of competent jurisdiction, such finding shall not affect the remaining portions of this Ordinance.

VIII. Repeal of Existing Ordinance

Hubbard County Enhanced 911 Ordinance No. 30 as adopted April 1, 2000 and amended on August 16, 2006 is hereby amended and replaced by this ordinance.

IX. Effective Date

This Ordinance shall be effective upon passage by the County Board and publication according to law.

Enacted 6th day of June, 2012.

Dated: 06/06/12

ATTEST:

Debbie Thompson
Debbie Thompson,
Hubbard County Coordinator

HUBBARD COUNTY

Richard Devine
Richard Devine, Chairman
Hubbard County
Board of Commissioners

Hubbard County Ordinance Number 31
MASS ASSEMBLY ORDINANCE

WHEREAS, the assembly within unincorporated areas of Hubbard County of large numbers of people for extended periods of time creates special problems in maintaining order, the enforcement of law, and the protection of the public health, safety and welfare, and

WHEREAS, these problems place extraordinary burdens upon the health, fire, police, transportation, and utility services provided in the ordinary and usual course of events, and

WHEREAS, it is accordingly necessary that provision be made for regulation, control and planning of such assemblies,

NOW, THEREFORE, the County Board of Hubbard County, Minnesota, ordains:

1. No person, firm or corporation shall conduct, maintain, operate, promote, organize, manage, or advertise, nor sell or give tickets of admission to, a show, exhibition or assembly of any nature (hereinafter called assembly) for which it is planned or may reasonably be expected that 300 or more persons attending the assembly may remain, or may be permitted to remain, upon the site, lot, field, or tract of land (hereinafter called the premises) upon which the exhibition, show, or assembly is conducted for eight or more consecutive hours without first obtaining a license as permitted by this ordinance.
2. The applicant for license shall make application in writing, accompanied by written approval by the County Sheriff and the Town Board of the Township in which the premises are located, verified under oath by the applicant or, if a corporation is applicant, by its president and secretary, filed with the county auditor not less one hundred twenty (120) days prior to the proposed beginning date of the assembly and shall set forth:
 - a. The full name, age, residence, and mailing address of the applicant, or names and addresses of the partners if applicant is a partnership, or the names and addresses of the officers and all persons owning more than ten percent (10%) of the stock of the corporation if the applicant is a corporation.
 - b. A legal description of the premises upon which it is proposed to conduct the assembly, with the names and addresses of all persons owning an interest in the premises, stating the nature of the interest.
 - c. The nature and purpose of the assembly, the proposed beginning date and the period during which the assembly will be conducted, and a detailed statement of the manner in which it will be conducted.
 - d. The maximum number of persons which the applicant will permit to assemble on the premises at any time during the assembly, which number shall be stated as a condition of any license which may be issued.
 - e. The plans of the applicant to limit and control admission to the premises to the maximum number of persons stated in the license and for controlling and parking vehicles of persons assembling on the premises.

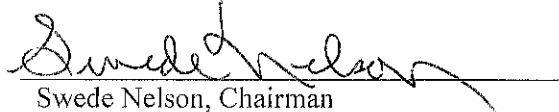
- f. Description of existing facilities, and plans for proposed construction and alteration of, sewage, garbage and waste disposal system, toilets, urinals, sinks, wash basins, drains; the source of water supply and plans for water distribution on the premises and methods of fire protection to be used during such assembly.
 - g. The proposed method of lighting the structures and premises during the assembly.
 - h. The number, location, and power of amplifiers and speakers, and plans for sound control during the assembly, if applicable.
 - i. Plans for maintenance of security and order on the premises, including the proposed number, deployment, and hours of availability of licensed, uniformed security guards upon the premises prior to, during, and immediately after the close of the assembly, said plans to be approved by the County Sheriff. The application shall include the names, addresses and credentials of all licensed, uniformed security guards to be employed during the assembly.
 - j. Plans for the preparation and distribution of food and refreshments upon the premises.
 - k. Plans for telephone facilities to the premises reasonably available to persons assembling and to law enforcement agents and county officers and employees.
 - l. Plans for medical services, including buildings therefor, the names and hours of availability of physicians and nurses, and provisions for ambulance and other emergency services.
 - m. Applicant must provide proof that appropriate licenses have been obtained for the sale or consumption of any alcoholic beverages as required by MS §340A.
 - n. Applicant must provide plans for compliance with standards as set forth by the State Pollution Control Agency regarding maximum levels of noise under MS §116.07 and Minnesota Rules, Chapter 7030.
3. The application shall be accompanied by a license fee in an amount which shall be set annually by the county board, together with a bond in the penal sum of an amount in the maximum liability established by MS §466.04, with a minimum of \$1,000,000 with sureties to be approved by the County of Hubbard, or a general liability insurance policy in a like amount naming the County of Hubbard as additional insured, conditioned that the licensee,
- a. Carries out all of the plans and keeps and performs all of the conditions of the application and license,
 - b. Maintain order on the premises,
 - c. Leave the premises in neat and respectable condition,
 - d. Pay, when due, to the person or persons entitled thereto, all debts and obligations incurred in promoting, advertising, and conducting and operating the assembly, and

- e. Indemnify and hold harmless the County of Hubbard, its officers, agents and employees, from any liability or causes of action arising in any way from the conduct of the assembly. The bond shall provide that any person damaged by the breach of any condition of the bond may maintain an action in his own name to recover his damages, after first giving written notice to the County of Hubbard, or the County of Hubbard may maintain an action in its own name for the benefit of the persons damaged. In the event that the County Board of Commissioners shall deny approval of the application, the fee shall be returned.
4. Within thirty days of filing an application, the County Board shall consider the application:
 - a. If the application is denied the County Board shall inform the applicant in writing the reasons for denying the applications, if the objection can be corrected, the applicant may amend the application and resubmit it for approval.
 - b. If the application is approved, the applicant shall be given an approval report which shall permit the applicant to proceed according to the plans stated in the application, provided, however, that such approval shall not relieve the applicant from compliance with all applicable statutes, ordinances, and regulations.
 - c. Plans and statements submitted in an approved application shall be deemed a condition of the approval report and of any license issued pursuant thereto, whether or not stated in the report or license.
 5. Not less than ten days prior to the start of the assembly the applicant shall file with the county auditor.
 - a. The names and addresses of all food and service concessionaires who would be permitted to operate on the premises, with the license or permit number of each.
 - b. A report showing completion of all construction and installation necessary to comply with the application for license, or in the event that such remain incomplete, evidence satisfactory to the county that completion will be had prior to the scheduled commencement of the assembly.
 - c. Upon receipt of such report and after making such investigation and inspection of the premises as it may deem proper, and finding that all plans and requirements stated in the application have been or will be complied with, the county shall issue a license.
 - d. The license shall at all times permit law enforcement officers and agents and officers of the county to enter upon the premises upon which the assembly is to be, or is being, conducted.
 6. No licensee shall sell tickets to, nor permit to assemble, more than the number of persons stated in the license.
 7. The license may be revoked at any time if any of the conditions of the approval report or license are not performed or complied with, or cease to be performed or complied with. The county

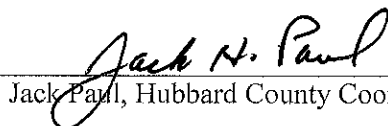
shall forthwith upon revocation serve upon the licensee a notice specifying the way or ways in which the licensee has failed to comply; upon satisfactory proof of compliance, the county board, may, in its discretion, reinstate said license.

8. If the license shall be denied or revoked, the applicant and all persons under the applicant's direction and control shall forthwith cease and desist from all acts for the promotion, advertisement, organization, and operation of the assembly, and shall do all things necessary to advise persons who may intend to assemble of the refusal or revocation of license, and shall do all things necessary to disperse persons who may have assembled upon the premises. In the event the licensee does not comply with a cease and desist order and terminate operations the Sheriff or his designees or agents are authorized to take whatever actions necessary to enforce provisions of the order. The cost of any such actions shall become the sole responsibility of the licensee.
9. In considering applications for license, the county board shall consider the character of the applicant and any past intentional violations of this ordinance, the nature of the assembly, the place thereof, the length of time during which it is to be conducted, and the adequacy of facilities for the protection of the public peace, health, safety, and welfare to be provided on the premises and in the area of the assembly, and plans to secure compliance with the conditions of the license.
10. This ordinance shall not require a license for assembly at established school auditoriums, school functions or established places of worship.
11. Any person, firm, corporation, or association violating or failing to comply with any provision of this ordinance, or any licensee who fails to comply with the conditions of a license, shall be charged with a misdemeanor and subject to penalties pursuant to current state statutes. The County Attorney may institute in the name of the County, upon direction of the County Board and/or the County Sheriff, any appropriate actions or proceedings for the enforcement of this ordinance and the conditions of licenses issued pursuant to it. The promotion, conduct, operation or maintenance of an assembly in violation of this ordinance or any license issued pursuant to it is hereby declared a public nuisance.
12. If any section or part of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions hereof.
13. This ordinance shall become effective upon its adoption and publication according to law.

Adopted this 21st day of February, 2001, by the County Board of Commissioners, Hubbard County, Minnesota.


Swede Nelson, Chairman
Hubbard County Board of Commissioners

ATTEST:


Jack Paul, Hubbard County Coordinator

ORDINANCE # 32

FOR THE REGULATION OF

ADULT USES AND

SEXUALLY ORIENTED BUSINESS

HUBBARD COUNTY, MINNESOTA

ENACTED ON:
March 6, 2002

ADULT USES AND SEXUALLY ORIENTED BUSINESS ORDINANCE

HUBBARD COUNTY, MINNESOTA

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1.0 ADULT USES AND SEXUALLY ORIENTED BUSINESS ORDINANCE

1.1 PURPOSE

In the development and adoption of the ordinance codified in this chapter, it is recognized that:

1. There are some adult business uses which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods, public parks, churches, public buildings, schools, and other facilities;
2. These business uses have a deleterious impact upon property values;
3. These business uses frequently become places of criminality.

It is the further purpose of this chapter to protect the well-being of the youth of the community from objectionable operational characteristics of these adult uses by regulating and restricting their close proximity to established facilities such as, but not limited to, churches, parks, schools, and residential areas.

It is the belief of the County that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied and encourages criminal sexual behavior.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor effect of this chapter to inhibit freedom of speech or the press. The provisions herein have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This chapter represents a balancing of the legitimate ends of the County by imposing an incidental, content-neutral place, time, and manner regulation of sexually oriented businesses without limiting alternative avenues of communication, and at the same time, requiring the business to carry its financial share of law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this chapter.

1.2 FINDINGS

The Hubbard County Board of Commissioners makes the following findings about the effect adult uses and sexually oriented businesses have on the character of the County's neighborhoods.

In making the findings, the County Commissioners accept the recommendations of staff that has studied the experiences of other areas about such businesses: City of St. Cloud, MN., The Minnesota Attorney General, the City of Los Angeles, CA., the City of St Paul, MN., the City of Austin, TX., Adams County, CO., St. Croix County, WI., the City of New York, NY., and various other cities throughout the Country have studied the impact of adult uses and sexually oriented businesses. These studies have concluded that adult uses and sexually oriented businesses have adverse impacts on the surrounding neighborhoods. Based on these studies the County Commissioners conclude:

1. Adult uses and sexually oriented business can contribute to an increase in crime in the area where such businesses are located. This can be a burden to the County crime prevention programs and law enforcement services.
2. Adult uses and sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can increase neighborhood blight. These businesses also can impair the character and quality of the residential housing in the area where such businesses are. This situation could lessen the amount of desirable housing for residents.
3. The concentration of adult uses and sexually oriented businesses in one area can greatly affect the area where such businesses are concentrated and on the quality of life. A cycle of decay can result from the influx and concentration of adult uses and sexually oriented businesses. Others may perceive the presence of such businesses as an indication that the area is deteriorating and the results can be devastating. That is, other businesses move out of the vicinity and residents flee from area. Lower property values that can result from the concentration of such businesses erode the County's tax base and contribute to blight.
4. Adult uses and sexually oriented businesses have adverse secondary impacts of the type discussed above.
5. It is necessary to provide for the special and express regulations of businesses; establishments or commercial enterprises that operate as adult body painting, studios, adult bookstores, adult cabarets, adult car washes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult motion picture arcades or theaters, adult modeling studios, adult novelty businesses, adult saunas, and similar adult oriented services operating under various names to protect the public health, safety and welfare, and to guard against inception and transmission of disease.
6. The commercial enterprises such as the types described in paragraph 5 above and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and employing personnel with no specialized training are susceptible to operations contravening, subverting, or endangering the morals or the County by being the site of acts of prostitution, illicit sex, and occasions of violent crimes, and thus requiring close inspection, permitting and regulations.
7. Control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the Sheriff's department and other departments of the County. It is necessary for the County to provide services to all of Hubbard County without concentrating the public services in one area. The concentrated use of County Services detracts from and reduces the level of services available to the rest of Hubbard County. Thus, these types of establishments can diminish the ability of the County to protect and promote the general health, welfare, morals and safety of Hubbard County.
8. The County Board of Commissioners adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the County's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and to protect and promote the health, safety and welfare of the residents of Hubbard County.

2.0 DEFINITIONS:

The following words shall have the following meanings:

2.01 ADULT USES: Adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities classified as obscene are defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

2.02 ADULT USE - ACCESSORY: The offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

2.03 ADULT USES - PRINCIPAL: The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

ADULT BODY PAINTING STUDIO: An establishment or business that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "Specified anatomical areas".

ADULT BOOK STORE: An establishment, building or business engaging in the barter, rental, or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor because of age, if more than twenty (20) per cent of the useable floor area of the establishment, building, or business, or if at least 500 square feet, whichever is smaller, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to "specified sexual activities" or "specified anatomical areas".

ADULT CABARET: An establishment, building or business that provides dancing or other live entertainment if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT CAR WASH: A wash facility for any type of motor vehicle that allows employees, agent, independent contractors or persons to appear in a state of partial or total nudity in terms of "specified anatomical areas".

ADULT COMPANIONSHIP ESTABLISHMENTS: An establishment of business, if such establishment excludes minors because of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and

a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

ADULT ENTERTAINMENT FACILITY: A building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentations of entertainment distinguished by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas".

ADULT ESTABLISHMENT: An establishment, building or business engaging in any of the following activities or which uses any of the following business procedures or practices, either:

- a: Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage thereat either by law or by the operator of such business; or
- b. Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas".

Specifically included in the term, but without limitation, are adult book stores, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels and adult body painting studios.

ADULT HOTEL or MOTEL: A hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

ADULT MASSAGE PARLOR, HEALTH/SPORT CLUB: A massage parlor or health/sport club that restricts minors because of age or law, which provides the services of massage if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

ADULT MINI-MOTION PICTURE THEATER: A business, building or establishment in an enclosed building with a capacity for less than fifty (50) persons used for the presenting of visual media material if such business as a prevailing practice excludes minors by virtue of age, or law, or if said material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patron.

ADULT MODELING STUDIO: An establishment or business whose major business is the provision to customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers who engage in "specified sexual activities" or "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

ADULT MOTION PICTURE ARCADE: Any building or place to which the public is allowed or invited in which coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices that show images to give or fewer persons per machine at once, and characterized by an

emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

ADULT MOTION PICTURE THEATER: A business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if said business as prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

ADULT NOVELTY BUSINESS: A business that has as a principal activity the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to "specified sexual activities" or "specified anatomical areas".

ADULT SAUNA/STEAM ROOM/BATHHOUSE: A business that excludes minors because of age, or which provided a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

2.034 PLANNING COMMISSION The Hubbard County Planning Commission as described in Minnesota Statutes, Section 394.30.

2.035 COUNTY BOARD OF COMMISSIONERS OR COUNTY BOARD: The governing body of Hubbard County, Minnesota.

2.036 DEPARTMENT OR ESD: the Hubbard County Environmental Services Department unless otherwise provided herein.

2.037 ZONING ADMINISTRATOR: the Zoning Administrator of the Hubbard County Environmental Services Department.

2.04 LICENSED FAMILY DAY CARE, LICENSED GROUP FAMILY DAY CARE, LICENSED CHILD CARE CENTER: A facility holding a license from Hubbard County or Minnesota pursuant to Minnesota Statutes, chapter 245A and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.

2.05 MINOR: Any person under the age of eighteen (18) years.

2.06 NUDITY: The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage male genitals in a discernibly turgid state.

2.065 OPEN SPACE: Any parcel of land or portion thereof designated by the Ordinance for the Management of Shoreland Areas, Hubbard County, Minnesota.

2.07 PUBLIC LIBRARY: Any library that provides free access to all residents of a city or county without discrimination and is organized under Minnesota Statutes, Chapter 134.

2.08 PUBLIC PARK: A park, reservation, playground, beach, or recreation or community center in the County owned, leased, or used wholly or in part by a city, county, state, school district, or federal

government for recreational purposes.

2.09 PLACE OF WORSHIP: A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

2.10 SCHOOL: A building or space that is principally used as a place where twenty-five (25) or more persons receive a full course of educational instruction. Any post-secondary or post high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of this Ordinance.

2.11 SEXUALLY ORIENTED BUSINESS: An adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities classified as obscene as defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

2.12 SPECIFIED ANATOMICAL AREAS: Anatomical areas consist of:

1. Less than completely and opaquely covering human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below a point immediately above the top of the areola or any combination of the foregoing; and
2. Human genitals in a discernibly turgid state, even if completely and opaquely covered.

2.13 SPECIFIED SEXUAL ACTIVITIES: Activities consisting of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zooerasty; or
2. Human genitals in the state of sexual stimulation, arousal, or tumescence; or
3. Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or
4. Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breasts; or
5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or
6. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

7. Human excretion, urination, menstruation, vaginal or anal irrigation; or
8. Any combination of the above.

3.0 PERMITTING OR LICENSES:

3.1 LICENSE REQUIRED

No person, firm or corporation shall own or operate an adult use or sexually oriented business in Hubbard County without having first secured a license as provided herein. The license shall be one of two types:

- A. Adult use Principal;
- B. Adult use Accessory;

3.2 APPLICATIONS:

The County shall provide an application for an Adult Use Principal or sexually oriented business license.

This application shall include:

- A. The legal full name, residence, phone number and birth date of the applicant, if any individual; and, if any corporation, partnership, LLC, or similar entity, the legal full names, residences, phone numbers and birth dates of those owners holding more than five (5) percent of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC or similar entity.
- B. The legal full name, address, phone number and birth date of the operator and manager of such operation, if different from the owners;
- C. The address and legal description of the building, establishment or premises where the adult use or sexually oriented business is to be located.
- D. A statement detailing each gross misdemeanor or felony of which the applicant or, for a corporation, the owners of more than five (5) percent of the issued and outstanding stock of the corporation, or ownership interest in a partnership, LLC or similar entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other Counties or Cities.
- E. The activities and type of business to be conducted;
- F. The hours of operation;
- G. The provisions made to restrict access by minors;
- H. A building plan of the premises detailing internal operations and activities;
- I. A description or building plan that details all proposed interior and exterior changes to an existing building or structure.

- J. Each application shall contain a provision on the application in bold print stating that any withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be reported to the Zoning Administrator by the applicant or licensee. If said changes take place during the investigation, the data shall be provided to the Zoning Administrator in writing, and the Zoning Administrator shall report the changes to the County Board of Commissioners. Failure to report said changes by the applicant (s) or the licensee may result in the denial or revocation of a license.

3.3 LICENSE FEES:

- A. Each application for a license shall be accompanied by a fee, as set by the resolution of the County Board of Commissioners, for payment in full of the required application and investigative fees for the license as established. All fees shall be paid at time of application. License fees shall be considered past due as of January 1 if not paid. Late fees will be assessed on all past due license applications.
- B. All permits/licenses shall expire on the last day of December in each year. The County shall issue each license for one (1) year, except if part of the license year has elapsed when the application is made, the County may issue a license for the remainder of the year for a prorated fee. In computing such fee, the County shall count any unexpired fraction of a month as one (1) month.
- C. The annual fee, investigative fee, and late fees for the Adult Use or Sexually Oriented business license shall be established by resolution of the County Board of Commissioners.
- D. No part of any annual fee, investigative fee, and late fee paid as required by this ordinance shall be refunded.

3.4 GRANTING OF LICENSE.

- A. The County shall investigate all facts set out in the application. After the County finishes the investigation, the County shall grant approval of the application if all requirements of this ordinance are met.
- B. The County shall only issue the license to the applicant. The license shall not be transferred to another holder. The County shall only issue each license for the premises or location described in the application. No license may be transferred to another location or place without the approval of the County Board of Commissioners.

3.5 PERSONS INELIGIBLE FOR LICENSE

The County shall not grant a license to nor may one be held by any person who:

- A. Is under twenty-one (21) years of age;
- B. Has been convicted of a felony;

- C. Is not the proprietor of the establishment for which the license is issued;
- D. Has not paid the license and investigative fees required by this Ordinance;
- E. Is not a citizen of the United States;
- F. Has had an adult use or similar permit or license revoked under and ordinance or statute similar to this ordinance.

3.6 PLACES INELIGIBLE FOR LICENSE.

- A. No license shall be granted for adult uses or sexually oriented business on any premises where a licensee has been convicted of a violation of this ordinance, or where any license hereunder has been revoked for cause until one (1) year has elapsed after such conviction or revocation.
- B. Except uses lawfully existing at the time of this Ordinance, no license shall be granted for any adult use or sexually oriented business that does not meet all County Ordinance requirements, all building and fire codes requirements, and all provisions of State and Federal Law.

3.7 NON-CONFORMING USES.

Any adult use or sexually oriented business existing on the effective date of the adoption of this Ordinance may be continued subject to the following provisions:

- A. No such adult use or sexually oriented business shall be expanded or enlarged except in conformity with the provisions of this Ordinance;
- B. A non-conforming adult use or sexually oriented business shall be required to apply for and receive an adult use license from the County. The County does not require a public hearing before issuing a license for the non-conforming adult use or sexually oriented business.

3.8 CONDITIONS OF LICENSE GENERALLY

- A. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Ordinance and of any applicable county, state and federal law.
- B. All licensed premises shall have the license posted in a conspicuous place.
- C. No minor shall be allowed in or on the premises of an adult use or sexually oriented business.
- D. Any designated inspection officer or law enforcement officer of the County shall have the right to enter, inspect, and search the premises of a licensee during business hours.
- E. Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions consistent with this Ordinance and County Ordinances generally.
- F. No adult goods, materials or services shall be offered, sold, transferred, conveyed,

given, displayed or bartered to any minor.

3.9 CONDITIONS OF LICENSE - ADULT PRINCIPAL

The County permits adult use principal and sexually oriented businesses subject to the following conditions:

- A. No adult use principal or sexually oriented business shall be located closer than 1320 ft from any other adult use principal or sexually oriented business in any County. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.
- B. No adult use principal or sexually oriented business shall be located closer than 1320 feet from any residential structure, place of worship, school, public park, open space, licensed family day care home, public library, or licensed child care or day care center in any city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest building used as a dwelling or residence, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.
- C. No adult principal use or sexually oriented business shall be located closer than 1320 feet from any residential structure. Measurements shall be in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest residential structure.
- D. All adult uses and sexually oriented businesses must meet the requirements of all Hubbard County Ordinances.
- E. The County prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure:

- Adult body painting studio;
- Adult book store;
- Adult cabaret;
- Adult car wash;
- Adult companionship establishment;
- Adult entertainment facility;
- Adult hotel or motel;
- Adult modeling studio;
- Adult sauna/steam room/bath house;
- Adult motion picture theater;
- Adult mini-motion picture theater;
- Adult massage parlor;
- Adult health/sports club;
- Adult novelty business;

Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" that the public can see.

- F. An adult use principal and sexually oriented business shall not sell or dispense non-intoxicating or intoxicating liquors, nor shall it be located within 1320 feet of a building that contains a business that sells or dispenses intoxicating or non-intoxicating liquors. An adult use principal and sexually oriented business shall not allow the consumption of non-intoxicating or intoxicating liquors anywhere on a parcel containing that use or business.
- G. No adult use principal and sexually oriented business' entertainment shall engage in any activity or conducts or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of Hubbard County, the laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.
- H. No adult use principal or sexually oriented businesses shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.
- I. All adult use principal and sexually oriented businesses shall prominently display a sign at the entrance and located within two (2) feet of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter".
- J. Adult use principal and sexually oriented businesses shall not be open between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 p.m. (Noon) on Sunday.

3.10 CONDITIONS OF LICENSE - ADULT USE ACCESSORY.

The County may issue Adult Use Accessory licenses to businesses or establishments subject to the following requirements:

- A. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any other adult use principal or sexually oriented business in any adjacent County. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.
- B. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any residential structure, place of worship, school, public park, open space,

licensed family day care home, public library, or licensed child care or day care center in any city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest property line of the premises or building used as a dwelling or residence, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.

- C. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any residential structure. Measurements shall be in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business.
- D. All adult uses and sexually oriented businesses must meet the requirements of all Hubbard County Ordinances.
- E. The County prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure:
 - Adult body painting studio;
 - Adult book store;
 - Adult cabaret;
 - Adult car wash;
 - Adult companionship establishment;
 - Adult entertainment facility;
 - Adult hotel or motel;
 - Adult modeling studio;
 - Adult sauna/steam room/bath house;
 - Adult motion picture theater;
 - Adult mini-motion picture theater;
 - Adult massage parlor;
 - Adult health/sports club;
 - Adult novelty business;
 - Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" that the public can see.
- F. The adult use accessory shall comprise no more than twenty (20) percent of the floor area, or up to five hundred (500) square feet, whichever is smaller, of the establishment, space, structure or building in which it is located.
- G. Adult use-accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

3.11 REVOCATION, SUSPENSION OR NON-RENEWAL OF LICENSE.

- A. The Zoning Administrator may revoke, suspend, or not renew a license upon recommendation of assigned ESD staff or the County Sheriff that shows that the licensee, its owners, managers, employees, agents or any other interested parties have

engaged in any of the following conduct:

1. Fraud, deception or misrepresentation about securing the license.
 2. Habitual drunkenness or intemperance in use of drugs defined in Minnesota Statutes Section 618.01, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine or other sedatives, depressants, stimulants or tranquilizers.
 3. Engaging in conduct involving moral turpitude or permitting or allowing other within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude.
 4. Failure to follow any requirements of the Ordinances of Hubbard County about sanitary and safety conditions, zoning requirements, or ordinances, the violation of which involves moral turpitude, or failure to follow the requirements of this Ordinance.
 5. Conviction of an offense involving moral turpitude.
 6. Conviction of a felony.
- B. The license holder may appeal such suspension, revocation, or non-renewal to the County Board of Commissioners. The County Board of Commissioners shall consider the appeal at a regularly scheduled public hearing within (30) thirty days from the service of the notice of appeal to the Zoning Administrator.
- C. At the conclusion of the hearing the County Board of Commissioners may order:
1. The revocation, suspension or non-renewal be affirmed;
 2. That the revocation, suspension or non-renewal be lifted and that the license be returned to the certificate holder.
- D. An appeal must be accompanied by a letter of credit, cashier's check, or cash in the amount of \$500. If the decision of the Zoning Administrator is upheld, the County is entitled to recover expenses and return any balance of the \$500 that may remain. If the decision is overturned, the full amount will be refunded to the license holder.

4.0 SIGN RESTRICTIONS:

The following sign regulations shall apply to all adult use sexually oriented businesses in Hubbard County. These regulations are to protect children from exposure to sexually oriented or shocking signs and materials and the preserve the value of property near adult use and sexually oriented businesses. These regulations are aside from any other provisions of the Counties regulations.

1. All signs shall be flat wall or freestanding signs. No sign shall be located on the roof, or contain any flashing lights, moving elements or electronically or mechanical changing messages.

2. The County's sign regulations outlined in the Ordinance for the Management of Shoreland Areas, Hubbard County, Minnesota shall regulate the number, size, and location of signs allowed for an adult use or sexually oriented business.
3. No merchandise, photos, or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right of way adjoining the building or structure in which the adult use or sexually oriented business is located.
4. No signs shall be placed in any window. A two (2) foot square sign may be placed on the door to state hours of operation and admittance to adults only.

5.0 PENALTY.

Any person violating any provisions of this Ordinance is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by State law.

1. It shall be a misdemeanor for a person who knowingly or intentionally, in a sexually oriented business, appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.

6.0 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of ordinance. The County Board of Commissioners declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase of it irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid.

7.0 EFFECTIVE DATE.

This Ordinance shall become effective the 14th day of March, 2002.

8.0 SIGNATURE

Passed by the County Board of Commissioners this 6th day of March, 2002.

County of Hubbard, Minnesota

By: /s/ Lyle Robinson
Lyle Robinson, Chairman

Hubbard County Board of Commissioners

Attest:
/s/ Jack Paul
Jack Paul, Hubbard County Coordinator

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Part I.

Administration and Authority

A. WHO is the Mississippi Headwaters Board (MHB)?

The **MHB** is an eight-county (Aitkin, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Itasca, and Morrison) joint-powers board united in 1980, with the signing of the Joint Powers Agreement (Appendix 1). It was duly authorized by the Minnesota legislature in 1981 to preserve and protect the outstanding and unique natural, scientific, historical, recreational, and cultural values of the first 400 miles of the Mississippi River. (MN Stat. 103F.361. Subd. (1) and (2). MN Stat. 103F.361-377, Appendix 2).

Organization and Structure

The members of the MHB consist of eight county commissioners, one from each county, and are governed by the MHB By-laws. The MHB Advisory Committee (MHAC) consists of members appointed by Counties, at large by the Board, and other entities such as cities or townships, that have adopted or share the MHB values for the Mississippi River. MHAC members may also be from technical groups such as planning and zoning, forestry, land commissions, Minnesota Department of Natural Resources (MNDNR), Pollution Control Agency (PCA), US Army Corps of Engineers (ACOE) and other agencies including tribal partners. Administration of the standards of the MHB lies chiefly with the member counties. The functions of the MHB are governed by the By-laws. The MHB provides opportunities for member counties to review and comment on administration and enforcement of MHB ordinance at public meetings. The MHB relies on its Advisory Committee to review and advise on the administration and enforcement of its land use regulations.

Purpose

Minnesota Statute 103F.367 states “ The Mississippi Headwaters Board established by the eight (8) counties pursuant to Section 471.59 is established as a permanent board with authority to prepare, adopt and implement a comprehensive land use plan designed to protect and enhance the Mississippi River and related shoreland areas situated within the counties.” (MN Stat. 103F.361. Subd. (1) and (2)). (MN Stat 103F.361 –377) The MHB informs the public about river protection and Best Management Practices (BMPs) for property owners concerning shoreline development.

B. WHAT does the MHB do?

The Mission

The (MHB) mission is to enhance and protect outstanding and unique natural, scientific, historical, recreational, and cultural values in the first 400 miles of the Mississippi River from its source at Lake Itasca in Clearwater County to the southerly boundary of Morrison County, Minnesota. (Pursuant to Minnesota law, (MN Stat. 103F.361 –103F.377, the joint powers agreement, and cooperation with other entities).

Powers

The Minnesota Legislature has empowered the counties to protect streams and lakes through regulation of land use above the Ordinary High Water Mark (OHWM). Some activities below the OHWM are permitted by other agencies, with review by MHB to promote consistent administration of standards. In the Mississippi Headwaters corridor, the Comprehensive Land Use Plan (Plan) represents the “common administration ” (MN Stat 103F.369Subd. 3) of “minimum standards”(Subd. 2) for protection of the river by the counties, (Subd.4) townships, and/or annexing municipality, or governmental unit adopting the standards (MN Stat. 103F.371). Where the Plan is more restrictive than the Local Government Unit (LGU) standard, the MHB standards are the governing standard. More restrictive tribal, or LGU standards take precedence over the Mississippi Headwaters standards

Certification and Review Authority: MHB certifies or disapproves variances, plats, and the adoption or amendment of ordinances. Specifically, the MHB, as necessary, ensures that the plan is not nullified by unjustified exceptions. MHB shall review and provide comment on land use actions prior to the local public hearings.

MHB provides administrative review and comments on conditional use permit requests prior to the local public hearing. MHB provides administrative review of Unified Site Plans (USPs) and Forestry Plans. MHB implements the Plan as referenced throughout the statute as stated in MN Statutes 103F.361 to 103F.377. MHB encourages and promotes consistent and effective protection of the scientific, natural, cultural, historic, and recreational values of the Mississippi River.

C. WHEN Did the MHB Go into Effect?

MHB History

The MHB was begun in 1980, as the result of a grass roots effort by the Counties as an alternative to federal control of the Mississippi River corridor. Had the Mississippi Headwaters been included in the National Wild and Scenic Rivers System (it remains eligible), the National Park Service would have been the administering agency with authority to condemn private lands and purchase at a specific market value.

The result is one of the most unique pieces of Minnesota legislative history and one of the first joint zoning authorities in northern Minnesota. MHB serves as a model for other joint power boards. As it stands today, the Mississippi Headwaters is under the control of **locally elected officials**, with administration through county government. With zoning authority provided by the Minnesota State Legislature, the joint powers agreement of the eight counties surrounding the River, the MHB implemented the 1981 Management Plan. The Plan was updated in 1984, 1992 and now in 2001. A comprehensive history of the authority of the MHB from 1981 to 2000 is maintained in the MHB office or may be viewed on the website at <www.mississippiheadwaters.org>.

Requirements of the National Park Service

The National Park Service agreed in November 1980 to hold in abeyance its conceptual master plan for designation of the Mississippi Headwaters into the National Wild and Scenic River system. However, the federal government recommended that the MHB achieve the following goals to "head off potential problems in its plans for the river."

- “1. The Mississippi Headwaters Board should "initiate and maintain cooperative agreements with the United States Forest Service, the State of Minnesota and the Leech Lake Indian Reservation to address the concerns and management roles of the Board, its member counties and these agencies in implementation of the plan. The Board may enter into cooperative agreements with such other entities as it may deem necessary for implementation of the plan;"
- “2. The Mississippi Headwaters Management Plan should be established as the standard of the Mississippi Headwaters Board and the eight member counties by the Minnesota Legislature;
- “3. The Mississippi Headwaters Board should establish a flexible land acquisition program that would identify those vulnerable shorelands requiring more protection than zoning; provide an acquisition schedule that sets priority for the shorelands by their vulnerability and availability for sale; recognize that availability for sale may change over time and allow revision of acquisition priority; and explore the many avenues of willing acquisition for the landowner's education including land exchange, donation, easements, etc;
- “4. The Mississippi Headwaters Management Plan should provide a strong and consistent zoning ordinance, including standards for conditional use permits, for consistent management of land use rules and equal treatment of landowners;
- “5. The Mississippi Headwaters Board should address management of recreation activity including management of recreation between developed facilities; management of litter and trespass problems; responsibility in the event of incidents or accidents; and control of careless recreational activity; and
- “6. The Mississippi Headwaters Board should establish long-term secure funding for operations and achievement of management goals and objectives.”

The **major points of difference** between the MHB's 1980 Plan and the proposals for management of the Upper Mississippi by the National Park Service are that the MHB Plan:

1. Did not propose any new federal authority or role.
2. Relied primarily on local zoning authority and use of existing public lands and authorities to protect the river rather than relying on significant new purchases of land or interests in land.
3. Where some new purchases are recommended to provide new recreation sites or shoreland protection, it would be solely on a willing seller basis, rather than the possible use of condemnation to acquire lands or interests

in lands, under the terms and conditions prescribed in the National Wild and Scenic Rivers Act.

- 4 Recommended the continuance and enhancement of the full range of recreational pursuits

D. WHERE is the MHB Corridor?

Jurisdiction

The MHB jurisdiction applies to the unincorporated areas of the Counties lying along the Mississippi River and Headwaters Lakes. The MHB Corridor consists of 3 designations as **Scenic River**, **Wild River** and nine (9) Mississippi **Headwaters Lakes** through which the Mississippi River flows -- Carr, Irving, Bemidji, Stump (impoundment), Wolf, Andrusia, Cass, Winnibigoshish, and Little Winnibigoshish. For delineation of Corridor boundaries see the Official Zoning Maps at Appendix 3.

Leech Lake Band of Ojibwe

MHB jurisdiction does not alter or expand the zoning jurisdiction of the counties within the boundaries of the Leech Lake Indian Reservation. The plan and county ordinances adopted pursuant to Section 103F. 369 Subd. 4 apply only to area within the zoning jurisdiction of the counties as provide by law in effect prior to May 30, 1981.

E. WHY is the MHB's Ongoing Work Important?

Common Administration

The counties are the fundamental unit of Corridor protection for the MHB. The MHB unites the eight counties through a set of consistent standards and management objectives providing common administration through the first 400 miles of the longest river in North America. In so doing, people who live along the Corridor have access to local officials and are easily able to participate in the processes and voice concerns about the decisions that affect the Corridor, where they work, live and recreate. Minnesotans have provided a unified voice for sustainable land uses in the MHB corridor. Minnesota Senator Bob Lessard maintains that local people are the true environmentalists with their deep appreciation and understanding of the Corridor. "Local officials protect and enhance the Corridor better, cheaper and with more first hand knowledge than the federal government can do it."

It has been shown throughout MHB history that the Corridor is effectively protected and enhanced for future generations by local levels of government that choose to unite in a joint powers format and work toward common goals. MHB is built on the premise that local government provides this service more effectively and less expensively than higher levels of government. Primarily MHB protects and enhances the Mississippi River, corridor lakes and associated aquifer water quality through land use stewardship. Public health, safety, and welfare are protected through zoning authority for an expanding population of Minnesota in the Upper Mississippi River Basin.

F. HOW does the MHB Perform the Task?

Management Tools

1. Zoning authority to regulate land use was set forth in this plan establishing allowable uses and development. The plan was written and approved by the MHB and adopted by the eight member counties and the 1981 Minnesota Legislature. The original statute also established the authority for the MHB to review and certify certain decisions of the counties. Increased pressure for development and modern technology has been the impetus behind Plan updates. A corridor of generally 500 feet (Scenic River) or 1,000 feet (Wild River and Headwaters Lakes) on either side of the river or lake was established.
2. The Zoning Authority provides administration and enforcement of the land use standards outlined in this Plan. The MHB has certification authority over specific county decisions as outlined in MN Stat. 103F.361-377. The MHB provides review and comment on other land use decisions. (See Part III, Section V)
3. Coordinate and facilitate management of the river corridor through administering the standards and Plan Objectives.
4. Provide Education to stakeholders about the standards and the function of the MHB for monitoring and public health safety and welfare of the River.
5. The Cooperative Agreements sets forth standards and guidelines for activities on lands associated with the river corridor. The goals and objectives of the plan are achieved through cooperative agreements with the Leech Lake Band of Ojibwe, the Minnesota Department of Natural Resources and the United States Forest Service-Chippewa National Forest and the U.S Army Corps of Engineers. The following is a comprehensive list of past, present and future MHB partners and supporters, not to be considered exclusive:

Mississippi Headwaters Board Partners

<u>Cooperative Agreements/Partnerships</u>	<u>Funding</u>	<u>Inkind</u>	<u>Program</u>
Federal			
Environmental Protection Agency	X		X
US Army Corps of Engineers*		X	X
USFS Chippewa National Forest*	X	X	X
Department of Transportation			X
National Park Service			X
State			
Board of Water and Soil Resources	X	X	X
Department of Natural Resources*	X	X	X
Environmental Quality Council (EQB)	X	X	X
Governor's Water Plan 2000		X	X
Itasca State Park		X	X
Legislative Commission on MN Resources	X	X	X
Minnesota Historical Society	X	X	X

MHB Partners, continued.

<u>Cooperative Agreements/Partnerships</u>	<u>Funding</u>	<u>Inkind</u>	<u>Program</u>
Minnesota State Archeology	X	X	X
MN Department of Health	X	X	X
MN Department of Transportation	X		
Office of Environmental Assistance		X	X
Pollution Control Agency*	X	X	X
County			
County Commissioners	X	X	X
Planning and Zoning Offices		X	X
County Highway Departments		X	X
County Historical Societies		X	X
Land Commissioners		X	X
Soil and Water Conservation Districts	X	X	X
Local Water Planning Task Force	X	X	X
Sentence to Serve			X
Regional			
American Heritage River Initiative	X	X	X
Leech Lake Band of Ojibwe*			
Heritage Center		X	X
Dept. of Resource Management	X	X	X
Mille Lacs Band of Ojibwe		X	X
River Defense Network		X	X
Mississippi River Parkway Commission		X	X
Mississippi River Basin Alliance		X	X
River Watch Network		X	X
River Network		X	X
Other Local Governments			
City of Cass Lake		X	X
City of Little Falls		X	X
City of Palisade		X	X
Bemidji Township		X	X
Northern Township		X	X
Ten Lake Township		X	X
Schools		X	X
Organizations			
Big Sandy Lake Assoc.		X	X
Economic Regional Groups		X	X
Great River/Great People		X	X
Lake Bemidji Watershed Project		X	X
Minnesota Power	X	X	X
Mississippi Headwaters Canoe Club		X	X
Ottertail Power		X	X
Pokegama Lake Assoc.		X	X
Tri-County Leech Lake Assoc.		X	X
Whitefish Area Property Owners Assoc.	X	X	X
Retired Senior Volunteer Program (RSVP)		X	

MHB Partners, continued.

<u>Cooperative Agreements/Partnerships</u>	<u>Funding</u>	<u>Inkind</u>	<u>Program</u>
Visitors Bureaus and Chambers of Commerce		X	X
Star Island Protective League		X	X
Foundations			
Blandin Foundation	X		
McKnight Foundation	X		
Initiative Foundations	X		

Key: Funding - Funding for MHB programs and activities
 In- Kind - Manpower, Services and Supplies
 Program – Participate(d) in program operations and activities
 *Cooperative Agreements -entered into agreement

6. Funding: Initial cash funding for the MHB was provided in 1981, by the Legislative Commission on Minnesota Resources (LCMR) and the member counties. Many changes have occurred in funding over the years. Currently, the MHB receives a biennial appropriation of \$170,000 administered by the MDNR Bureau of Planning. Each County contributed \$2,500 per year in cash during FY 1999-2001. Total county inkind contributions usually exceed \$1,000,000 annually. The majority of county contributions are in-kind and not cash contributions under the following categories: administration of land use controls, timber management activities, recreation management activities, construction and maintenance of roads, bridges and accesses in the River corridor, office administration, attorney’s fees.

Seed money for River Watch (a community based water quality monitoring and protection activity) was provided with a grant from the Charles K. Blandin Foundation in 1990 with the agreement that cost for ongoing work would be, and has been provided by local supporters since 1995. MHB seeks additional grants and funding in support of special projects that promote the MHB mission and vision as the need arises.

The MHB is organized as a joint powers board, pursuant to Minnesota Statutes, Section 471.59. As such, the board is an agency of government and is exempt from Internal Revenue tax requirements, to the extent the law allows. The MHB received a ruling from the State Attorney General's office in 1981 stating this conclusion.

The MHB records its financial activities in accordance with generally acceptable accounting standards. With the receipt of grant funds, separate accounts are established to record receipts and expenditures for those program activities. These accounts are established to ensure that funds are used only for eligible activities. Cass County serves as the fiscal agent and is the host County. MHB is audited by the State Auditor on a biennial basis

Fees: Local permit fees and inspection fees may be established by resolution of the County. Fees shall be collected by the Zoning authority for deposit with the County Treasurer and credited to the appropriate fund.

7. An inventory of river resources developed and adopted by the MHB shall be reviewed, revised and presented to the Minnesota Legislature as needed. This inventory is available as the MHB Guidebook, Mississippi Headwaters River Trails maps, and River Watch data, which inventory natural, cultural, scenic, scientific and recreational sites on the Mississippi Headwaters. The information contains an assessment of the river's health and risks to the Corridor.
8. Land Exchanges and acquisitions are management policies that may be used to provide for the retention and improvement of existing lands along the river for fish and wildlife habitat and recreational use. MN Stat. 103F.369 Subd. 2 states, "...state or county lands within the boundaries established in the Plan may not be offered for sale or public lease..." As an alternative to public land acquisition, this Plan calls for the consolidation of public ownership along the river through land exchanges and conservation connections. Administration of the management policies is through the counties, land commissioners and the MHB. Procedures are established in the Plan for the State of Minnesota to notify and advise compliance of governmental activities in the river corridor with the Mississippi Headwaters "Comprehensive Land Use Plan" (MN Stat 103F. 365 Subd. 4).
9. MHB Policies are approved or rescinded by the Board. Policies may provide direction to staff in administrative decision-making and general office operations. Policies may simply reflect the best available information or technology of the day. Policies are available upon request from the MHB office.

The Role of Local Government Units

Counties

The eight member counties comprise the MHB. Each County appoints an elected County Commissioner to the MHB. Each County also appoints citizen and technical members to the Advisory Committee. Each county is represented by its duly elected Commissioner and appointed Advisory Committee members. The adoption and enforcement of the Plan is carried out through the individual counties. "The Counties shall adopt land use ordinances consistent with the Plan" according to MN Stat. 103F.369 Subd. 4.

Municipalities

Incorporated cities were not included in the original MHB Plan or jurisdiction. When cities annex lands within the MHB corridor, they must adopt the MHB standards for the annexed lands. Minnesota Statutes 103F.375, Subd.1. (1) and (2) requires a moratorium on all platting, building permits, construction, grading and filling, and vegetative cutting until land use regulations that are at least as stringent as the MHB standards are adopted by the annexing government unit which "comply with the provisions of (this) plan". The resulting regulations shall be certified for consistency with the Plan. Upon adoption of the MHB standards, and MHB certification of the applicable rules under the process outlined in MN Stat 103F.373 Subd.1, 2, & 3, the moratorium may be lifted. Cities presently setting precedent for other municipalities include Palisade, Cass Lake, and Little Falls.

Townships

A limited number of townships along the Corridor administer their own zoning ordinances according to MN Stat. 394.33 Subd. 1. Townships that have adopted the MHB standards in their ordinances include Bemidji, Northern, and Ten Lake Townships of Beltrami County. The county is required to comply with the MHB Comprehensive Plan. Townships, being part of the counties, must in accordance with MN Rules 6120.3900, adopt shoreland management controls consistent with county controls and thus MHB standards. Townships must cover the full range of shoreland management provisions that are covered by the county controls.

“All local and special units, councils, commissions, boards and districts and all state agencies and departments must exercise their powers so as to further the purposes of MN Stat. 103F.361 to 103F. 377. Land owned by the state, its agencies and political subdivisions shall be administered in accordance with the plan.”(MN Stat 103F.371)

Part II.

Management Objectives

II. Management Objectives

The MHB endorsed goals to implement the Plan. They are to complement existing water protection efforts in the Upper Mississippi River watershed; to provide a format for partnerships working together for the common good and toward common goals; to encourage stewardship in practices affecting water quality; to provide opportunities for education to diverse peoples and increased information regarding the protection and enhancement of the five MHB values.

A. Vision Statement

MHB strives to protect and enhance the outstanding values of the Mississippi Headwaters to provide an area of clean water, healthy environment, and sustainable communities, which are balanced by economic, environmental and social factors.

B. The Significance of Protecting the Mississippi River

The significance of hydrogeological interchange between ground water and surface water has been recognized by the Environmental Protection Agency (EPA) and the Minn. Department of Health (MDH) in the Source Water Protection (SWP) Program. More information is needed to adequately address how one influences the other. The significance of this interchange is that wellhead protection which is primarily a ground water source, and surface water are part of the same system in a watershed. The result is that the welfare of the Upper Mississippi Watershed has the potential to influence rural and urban public health in public and domestic wells. Communities along the Mississippi River corridor including down-gradient urban drinking water sources in St. Cloud, Minneapolis, and St. Paul are dependent on the quality of water maintained in the Headwaters area for their drinking water. These cities are major population centers for the state of Minnesota. As a result, the significance of protecting and enhancing the upper Mississippi River impacts health and safety of more than 25-33% of the State's population.

One of the goals of this plan is to support the eight MHB counties' local water planning efforts by achieving adoption of the minimum standards by each county. The contents of this section of the Plan, is the result of input from numerous public meetings, MHB meetings, discussions, and actions; the MHB, MHAC and subcommittees; letters, e-mails and phone calls from private citizens; legislative and legal advisors; as well as River Watch students and teachers.

C. Objectives and Implementation Methods

Each of these objectives is intended to fulfill one or more of the five values in MHB's mission statement and/or statutory authority. Objectives and action items are not limited to those listed and are not in any priority of order. The interactive and interdependent nature of the values becomes apparent as the Vision is implemented through various projects.

C.1. To Protect and Enhance the Scientific Values

Objective:

Encourage use of up-to-date technologies for gathering and analyzing data in studies and research to support the local decision making process.

Implementation Methods:

1. Promote water quality testing by maintaining the River Watch Program and extending this program to as many schools and subwatersheds as possible throughout the MHB counties using reliable data generation that addresses consistent water monitoring protocols, while providing a multidisciplinary and interactive program.
2. Promote analysis of Water Quality Data to identify and prioritize water quality issues.
 - ◆ Correlate water monitoring with subwatersheds and encourage subwatershed monitoring plans.
 - ◆ Encourage studies and projects that compare changes in water quality with changes in property values and economic use of the area.
3. Provide distribution of data and results by reporting on River Watch data
4. Promote water protection by recognizing the hydrogeologic interconnections between surface water and groundwater, and/or whatever revelation the best available technology may bring that would promote the mission, vision, or direction of the Mississippi Headwaters Board.
5. Promote study of the cumulative effects of septic systems and encourage the establishment of public service districts/clusters in appropriate areas
6. Promote the use of best available technologies to provide shoreline erosion analysis and bluff protection
7. Promote the Governor's Water Plan 2000, coordinated through the EQB (Environmental Quality Board), and specific River Watch goals by implementation of local water plans.
8. Facilitate the interpretation of existing information through trend development and studies similar to the 1998 study in Maine, which interprets the value of land based on water quality and other natural amenities.
9. Support the locally developed goals and objectives of the eight MHB county water planning efforts. MHB is committed to advising the counties in updating and amending the water plans.
10. Inform and educate to support above issues and projects

C.2. To Protect and Enhance the Natural Values

Objective:

Gather and provide information and data to promote the protection of habitat areas, the use of Forestry Goals, and the preservation of existing natural values.

Implementation:

1. Promote development of a comprehensive fish survey of the River to determine water quality and recreation impacts.

2. Utilize and update MHB's Erosion Study to identify and restore problem areas.
3. Identify point and non-point sources of stormwater runoff that may pollute the River.
4. Water Levels/ Flows
 - ◆ Partner and coordinate data collection and information inventories with the Army Corps of Engineers (ACOE) Reconnaissance Study-Reservoir operation to promote a systematic approach to dam and water level management.
 - ◆ Improve public information on water levels through maintenance of the Rossman Water Book.
5. Identify and promote protection of critical habitat for flora and fauna, on public and private lands, minimizing duplicative efforts
6. Identify point and non-point sources of agricultural impacts that may pollute the river.
7. Work with agencies such as USFS, MNDNR, County Land Departments, SWCDs and Forest Industry to promote sustainable forestry practices to meet forestry goals.
8. Maintain a significant role in working with PCA and DNR to promote responsible and far-sighted Basin Planning for the Mississippi River and its tributaries.
9. Develop and use wetland modeling, upland models, plume modeling, computer modeling, land use mapping.
10. Inform and educate to support above issues and projects

C.3. To Protect and Enhance the Historic Values

Objective:

Preserve the historical values by maintaining historic and prehistoric data and information of the watershed/ basin area.

Implementation:

1. Promote the gathering of historic and prehistoric information
 - ◆ Oral History, "Voices of the River, Tributaries from Our Past" will facilitate the ongoing collection, publication, and dispersion of History, archeology and or culture of the Mississippi River, through collaboration with County Historical Societies, Leech Lake Heritage Center, archaeological organizations and others.
2. Promote the establishment and use of Best Available Technologies to collect, store, and disseminate historical information.
3. Increase community awareness of the value and importance of the MHB's cultural resources.
4. Preserve the history and values on which the MHB is based.
5. Encourage preservation of historic maps, photographs, and documents
6. Encourage integration of historic preservation of all levels of planning to promote consideration of cultural resources in decision-making processes.
7. Expand and strengthen the network of organizations and individuals engaged in historic preservation throughout the Mississippi Headwaters region.
8. Maximize efforts to identify and designate significant historic resources.
9. Inform and educate to support above issues and projects

C.4. To Protect and Enhance Cultural Values

Objective(s):

Promote sustainable cultural uses of the river through land use regulation, cooperation and coordination, education and recognition programs.

Maintain environmental justice, fairness and equal treatment for all people.

Implementation:

1. Promote the use of BMPs and compliance with Land Use Regulations
 - ◆ Promote a Realtor Certification Program
 - ◆ Provide Recognition Programs
2. Encourage citizen involvement in MHB and River Watch
 - ◆ Maintain a strong volunteer network
 - ◆ Promote sustainable agricultural practices for pasture and feedlots.
 - ◆ Enhance public awareness of MHB and its goals
 - ◆ Promote the clean-up of the Mississippi River through removal of trash, debris, and other hazards to navigation that is suitable to the area.
 - ◆ Encourage development and use of BMPs for addressing light and noise pollution.
3. Maintain and enforce the MHB's Comprehensive Land Use Plan and Minimum Standards
 - ◆ Promote smart growth in the Corridor through proper placement of major utilities and development in or near areas that are most suitable for development.
 - ◆ Prevent the disturbance of wetlands when possible. Maintain a protective wetland replacement ratio when disturbance of wetlands is necessary. Maintain wetland replacement within the MHB corridor when possible but at least within the Mississippi River watershed.
 - ◆ Public land ownership in the River Corridor should be retained. Promote land exchanges to minimize development impacts on public land by consolidation of public holdings along the river.
 - ◆ Continue to review nonrecreational leases of public lands within the river corridor.
 - ◆ Acquisition is an option for those lands requiring greater protection than zoning provides.
 - ◆ Promote the establishment and use of Best Available Technologies to collect, store and disseminate information.
4. Promote a strong network and partnerships with state, federal and local agencies and organizations and with the Leech Lake Band of Ojibwe and tribal members.
 - ◆ Establish and maintain letters of agreement with cities and townships along the Corridor. Be more active in our collaboration and support of townships with similar goals
 - ◆ Promote the adoption of MHB standards or equivalent protection in cities and townships along the Corridor through annexation, education, or other collaborative means.
 - ◆ Support and partner with other entities, in the River Defense Network (RDN) and/or similar activities that conduct advance planning for the prevention of emergencies.

- ◆ Work toward the advancement of consistent administration of standards for Source Water Protection and the Safe Drinking Water Act as it relates to Health, Safety, and public welfare and as provide under the responsibility of zoning.
 - ◆ Encourage partnerships with the southern portion of the Mississippi River (south of the southern boundary of Morrison County).
 - ◆ Help coordinate planning across political boundaries to keep the River free of pollutants.
 - ◆ Correlate monitoring programs and information through Basin Planning.
5. Inform and educate to support above issues and projects

C.5. To Protect and Enhance Recreational Values

Objective:

Promote sustainable, non-detrimental recreation opportunities and use

Implementation:

1. Promote wise use and continued enhancement of the Mississippi Headwaters River Trail
2. Support sustainable recreational events
3. Encourage the use of Conservation Easements
4. Promote improvements to the Great River Road
5. Continue participation in the Mississippi River Parkway Commission and other organizations seeking to fulfill the objectives of the Great River Road Development Study. (See <www.dot.state.mn.us> go to publications.)
6. Promote sustainable and suitable upgrades of resorts and campgrounds.
7. Inform and educate to support above issues and projects

C.6. Administrative Directives

Objective(s):

Provide efficient and cost-effective support for the MHB while maintaining a good working environment for staff, MHB and MHAC members, and volunteers.

Implementation:

1. Maintain and improve ongoing support of the Board activities in fulfillment of MN Statutes.
2. Amend the Comprehensive Land Use Plan as needed so that the cost of a major revision every 5 years is more easily absorbed in the budget.
3. Streamline office efficiency, paperwork processing, and time in serving the needs of the counties and applicants.
4. Maintain adequate office space and adequate staffing/ workspace for MHB, MHAC, and volunteers.
5. Maintain financial stability, which may include use of a fee structure for the purpose of covering basic operating costs, and other routine operational expenses.
6. Maintain a strong voice in the legislature.
7. Be sensitive and responsive to concerns of constituents.

Part III.

Mississippi Headwaters Standards for Land Use

III. Mississippi Headwaters Standards for Land Use

Section A – Introduction

The Minnesota Legislature has empowered the Mississippi Headwaters Board (MHB) to protect the Mississippi Headwaters Corridor through regulation of land use above the Ordinary High Water Mark. Some activities on the shoreland are permitted by the MnDNR and other agencies, with review by the MHB to promote consistent administration of minimum standards. In the Mississippi Headwaters Corridor, this Plan represents the “common administration” (MN Stat. 103F.369 Subd. 3) of “minimum standards” (Subd.2) for protection of the River by the counties, (Subd. 4) townships, and/or annexing municipality, or governmental unit adopting the standards (MN Stat. 103F.371).

Section B - Definitions, Abbreviations, and Acronyms

Unless specifically defined below, words or phrases used in this Plan shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Plan its most reasonable application in light of the general regulatory scheme of this Plan. For the purposes of this Plan, the words "must", "shall", and "will" are mandatory and are not permissive. All distances, unless otherwise specified, shall be measured horizontally.

For the purpose of this Plan, certain words and terms are herein defined as in the Glossary located at the end of this document.

Section C - General Provisions

C.1. Jurisdiction

- a. **Jurisdictional Area.** The jurisdiction of this Plan shall include all lands, islands and waters in the Mississippi Corridor within the jurisdiction of the Counties.
- b. **Municipalities.** Municipalities lying within the area of the Mississippi Headwaters Corridor are encouraged to bring the land within their respective incorporated limits under the jurisdiction of the official controls of the MHB, or, at a minimum shall develop consistent and appropriate standards to achieve the intent and purpose of this Plan.
- c. **Annexed Unincorporated Areas.** When land within the Corridor is annexed, incorporated or in any other way transferred to another jurisdiction, a moratorium shall exist on all subdivision platting, building permits, construction, grading and filling, and vegetative cutting until the newly responsible unit of government adopts zoning controls and standards for that land. The zoning controls and

standards shall be consistent with the provisions of this Plan that applied to the land before the annexation. This provision does not apply to work for which lawful permits were previously issued. Pertinent local ordinances shall provide that these permits shall expire after one year if no work has begun on the permitted project. The Zoning Authority may allow an extension of the permit for up to 12 months.

- d. **Leech Lake Band of Ojibwe (LLBO).** The LLBO has jurisdiction over those lands governed by tribal trust within the Corridor. By agreement with the MHB, the LLBO will work to uphold the values and standards of the MHB Plan.

C.2. Compliance

The use of the Mississippi River shorelands, the size and shape of the lot, the type, dimensions and location of structures on the lot, the installation and maintenance of water supply and waste treatment facilities, the filling, grading, lagooning or dredging of any Mississippi River shoreland area, the cutting of shoreland vegetation, and the subdivision of lots shall all be in full compliance with the terms of this Plan, the state subdivision controls ordinance, Minnesota Rules, Parts 7080, as promulgated by the Minnesota Pollution Control Agency and Minnesota Rules, Chapter 4720, promulgated by the Minnesota Department of Health. These regulations are hereby adopted and made a part of this Plan by reference.

C.3. Abrogation and Greater Restrictions

- a. **Supersedes Other Ordinances.** The Standards of this Plan supersede all provisions that are less restrictive of any other zoning ordinances that apply to the Mississippi Headwaters Corridor.
- b. **More Restrictive Ordinances Allowed.** This Plan does not prohibit the County, LLBO, or local governments from adopting or continuing in force, by ordinance, regulations of the Mississippi River or Headwaters Lakes and their adjacent lands and islands, which are more restrictive than those required by this Plan.
- c. **Deed and Zoning Provisions.** It is not otherwise intended, nor shall it be construed by this Plan, to repeal, abrogate or impair any existing deed restrictions, covenants, or ordinances thereof other than zoning to the extent specified in the above paragraph titled “Supercedes Other Ordinances”.
- d. **Supplemental Provisions.** The County, LLBO, or local governments may adopt additional specific permit procedures or donations or other requirements for compliance so long as they are at least as restrictive, or great, than those required by this Plan.

C.4. Severability

The provisions of this Plan shall be severable, and the invalidity of any section, subsection, paragraph, subparagraph or sub-division or any other part thereof shall not make void any section, subsection, paragraph, subparagraph, or subdivision or any other part. If any court of competent jurisdiction shall adjudge invalid any provision of this Plan or the application of this Plan to a particular property, building, or other structure, the judgment shall not affect any other provision of this Plan or any other property, building or structure not specifically included in the judgment.

C.5. Plan Amendments

Amendments to the Plan may be made in compliance with MN Statutes 103F.369 Subd. 2, “in any way that does not reduce minimum standards set forth in the Plan.” An annual review of the Plan is recommended to update and revise procedures, implementation, new information, or new regulations, address Best Management Practices or other elements affecting common administration of the minimum standards.

Section D - Mississippi Headwaters Corridor

D.1. General Considerations

General considerations and criteria used in establishment of the classifications and delineation of the Mississippi Headwaters Corridor are preservation of natural areas; present ownership and development of shoreland areas; shoreland soil types and characteristics; topographic characteristics; vegetative cover; water quality; recreational use of surface water; road, utility, and service center accessibility; necessity to preserve and protect natural, cultural, scientific, historic, and recreational values of the shorelands.

D.2. Corridor Defined by Map

In order to protect and manage the Mississippi River and its shoreland, the Headwaters Corridor has been classified as Wild River, Scenic River or Headwaters Lakes. The boundaries of the Corridor, as represented in the Official Zoning Maps, are generally defined as follows:

Wild River	1000 feet from OHWM
Scenic River	500 feet from OHWM
Headwaters Lakes	1000 feet from OHWM

These revised MHB maps are hereby designated as Official County Zoning Maps upon adoption of this Plan by the counties.

See Official Zoning Maps at Appendix 3 for boundary location. Confirmation of the exact location of the Corridor and its boundaries shall be made by the Zoning Authority.

Section E - Zoning Classifications

E.1. River Classifications

- a. **Wild.** The classification of "Wild" designates those areas of the river Corridor that are generally inaccessible, except by trail, and which include unique and significant natural, cultural, historic, scientific, and recreational values, and are generally considered remote. These areas represent the region's appearance before organized European settlement.
- b. **Scenic.** The classification "Scenic" designates those areas of the river Corridor with relatively undeveloped shorelines, with important natural, cultural, historic, scientific, and recreational resources. There is limited access to the river and other shorelines.
- c. **Description.** The following table classifies the Corridor by river segment. RM is the abbreviation for River Mile with Lake Itasca as the beginning point.

<u>River Segment</u>	<u>Classification</u>
Lake Itasca to RM 47	Wild
RM 47 to RM 90	Scenic
RM 90 to RM 146	Wild
RM 146 to RM 400	Scenic

- d. **Areas Excluded.** These classifications do not include incorporated areas or Headwaters Lakes. Incorporated areas are subject to zoning restrictions set by the local government unit, other County ordinances, and state and federal regulations.

E.2. Lake Classification

- a. **Headwaters Lakes.** Headwaters Lakes are comprised of the lakes Carr, Irving, Bemidji, Stump impoundment, Wolf, Andrusia, Cass, Winnibigoshish, and Little Winnibigoshish.

E.3. Areas Excluded

These classifications do not include incorporated areas or areas governed directly by the LLBO. Incorporated, non-annexed areas are subject to zoning restrictions set by the local government unit, other county ordinances, and state and federal regulations.

Section F - Construction or Structure Standards

F.1. Standards

The following table establishes the minimum standards for lot size, lot width, structure and ISTS setback, shore impact zone, and structure height for each zoning classification. The following standards apply to the Corridor:

Classification	Minimum lot size	Structure setback from OHWM	ISTS setback from OHWM	Lot Width at OHWM and at Building line	Shore Impact Zone	Structure Height
River Wild	10 acres	200 feet	150 feet	330 feet	100 feet	18 feet
River Scenic	5 acres	150 feet	125 feet	330 feet	75 feet	35 feet
Headwaters Lakes: General Development*	30,000 square feet	100 feet	75 feet	100 feet	50 feet	35 feet
Headwaters Lakes: Recreational Development*	40,000 square feet	100 feet	75 feet	150 feet	50 feet	35 feet
Headwaters Lakes: Natural Environment*	80,000 square feet	150 feet	150 feet	200 feet	75 feet	35 feet

*Unsewered / single dwelling – see MN Rules 6120-3300.

**General Development Lakes, Minnesota Rules 6120-3300 reduced lot area for only non riparian lots serviced by Public Service Districts.

Note: New Joint Powers Board:

Riparian Lots, Lakes, Bemidji & Irvine minimum lot size with Public Service District 30,000 square feet, 100' X 300'

Non-riparian lots, Lakes Bemidji & Irvine minimum lot size with Public Service District, 20,000 square feet, 100' X 200'

The MHB recognizes that other local government, state, or federal regulations may be more restrictive than the above standards in certain areas or situations. The more restrictive regulations take precedence.

F.2. Agricultural Building Height Exemption

Buildings used for agricultural purposes are exempt from maximum structure height restrictions.

F.3. Nonconforming Lots

- a) This subdivision applies to shoreland lots of record in the office of the County Recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance,

- improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.
- b) A nonconforming lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
 - 1) All structure and septic system setback distance requirements can be met;
 - 2) A type 1 sewage treatment system consistent with Minnesota rules, chapter 7080, can be installed or the lot is connected to a public sewer; and
 - 3) The impervious surface coverage does not exceed 25 percent of the lot.
 - c) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - 1) The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
 - 2) The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080 and local government controls;
 - 3) Impervious surface coverage must not exceed 25 percent of each lot; and
 - 4) Development of the lot must be consistent with an adopted comprehensive plan.
 - d) A lot subject to paragraph c, not meeting the requirements of paragraph c must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
 - e) Notwithstanding paragraph c, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under a common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

F.4. Significant Cultural Sites

- a. **General Provisions**

No structure may be placed on an identified cultural site in a manner that affects the values of the site unless adequate information about the site has been recovered and documented by the Minnesota State Historical Society (MHS).
- b. **Notification and Review for Presence of Cultural Sites.**

All zoning actions submitted to Mississippi Headwaters Board for review and certification must be evaluated for the presence of cultural sites. Notice will be

made to the MHS regarding pending development, subdivisions or plats. The information will be used to address the cultural aspect of the certification process by the MHB. A development plan and training for site workers to identify previously unidentified cultural indicators may be recommended.

c. **Unplatted Cemeteries.**

No structure shall be placed nearer than 50 feet from the boundary of an unplatted cemetery or of a significant cultural site protected by the MHS.

F.5. Bluff Impact Zone

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

F.6. High Water Elevations

Where state-approved, local flood plain management controls exist, structures must be placed at an elevation consistent with the controls. Where these controls do not exist, the lowest floor, including basement, shall not be placed at an elevation lower than three feet above by the ordinary high water mark (OHWM).

In order to preserve floodplain areas, applicants should be advised that according to flood plain maps, the site in question may be within the 100-year, or 500-year, flood plain. Where flood elevations have not been delineated, this statement is to serve as a notice of suitability to the applicant by MHB to consider susceptibility of flooding and the resulting limitations for development which may be harmful to health, safety, welfare, or economic values of future residents of the proposed development. The natural state of each lot or subdivision should be suitable for a proposed use with only minimal alteration. For suitability analysis, see Section III-T.

F.7. Steep Slopes

Before issuing a permit for construction of sewage treatment system, road, driveways, structures or other improvements on steep slopes, the slope must be evaluated for possible soil erosion impacts and development visibility from public waters. If necessary, the permitting authority must impose conditions to prevent erosion, preserve existing vegetative screening of structures assuming summer, leaf-on vegetation. No excavation may be made between the building line and the water.

F.8. Stairways, Lifts and Landings

- a. **Construction Requirements.** 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.
- b. **Visibility Minimized.** Stairways, lifts and landings must be located to minimize visibility from the public water, assuming summer, leaf-on, conditions.
- c. **Handicap Accesses.** Facilities to provide access to shore areas for physically handicapped persons are allowed, provided the dimensional and performance standards of this section are met.

F.9. Decks

Decks not meeting the minimum structure setback requirements may be added to structures existing on July 1, 1981, provided the following criteria are met:

- a. The deck encroachment toward the ordinary high water mark does not exceed 15 percent of the existing shoreline setback from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
- b. The deck is not roofed or screened.

Section G - Unified Site Plan

G.1. Purpose

A Unified Site Plan (USP) shall be prepared for all variance applications, plats, and rezoning of particular tracts. The Zoning Authority may, at its discretion, require a USP for other permitted activities. The USP must be approved by the Zoning Authority or its

designee. MHB will review and provide comment on the USP to the Zoning Authority.

The MHB recognizes the ability of the Zoning Authority to prudently and properly issue permits for the construction of structures, individual sewage treatment systems, and other lot improvements.

G.2. Standards

The standards of the Unified Site Plan are:

- a. Retain or recreate original hydrologic conditions by minimizing use of pavements and impervious surfaces and retaining original runoff volume and velocities.
- b. Confine development and construction activities to the least critical areas by avoiding critical areas such as long, steep slopes, erodible soils, and fragile vegetation.
- c. Fit development to terrain.
- d. Preserve and utilize the natural drainage system.
- e. Establish and/or maintain at least a 10-foot vegetative buffer zone at the water's edge.
- f. Utilize natural vegetation landscaping.
- g. The applicant shall provide evidence of compliance with all Federal, State and local permits or requirements specifically: the Clean Water Act, Phase II permit for stormwater management, ISTS, and other applicable requirements.

G.3. Unified Site Plan Criteria

The Unified Site Plan must include the following information:

Date of submittal
 Property owner's name, address, phone number, parcel ID number
 Legal description of property – lot and block, certificate of survey, county, township range, section, and subsection
 Description of proposed construction
 Existing vegetative cover
 Existing and proposed shoreline buffer strips
 Soil Type
 Structure setback from OHWM
 Septic system setback from OHWM
 Amount of excavation within shore impact zone and outside the impact zone
 Percent of slope at building line
 Significant topographic features that affect the project
 Drainage patterns and vegetative buffers
 Type of vegetation that will be removed or changed for construction purposes or landscaping plans
 Percent of impervious surfaces such as roofs, sidewalks, driveways, parking areas

- Erosion control measures during construction
- Erosion control measures after construction
- Material adverse effect (if required)
- Suitability analysis (if required)

The USP must include a scaled site drawing and photo showing existing vegetative cover, slope and topography, property lines, rights-of-way, easements, location of existing buildings and structures, areas for the proposed project, and the areas of soil disturbance. Related site plans, such as ISTS Plans, may fulfill some requirements of the USP.

G.4. Material Adverse Effect and Suitability Analysis

Based on the information provided in the USP and related site plan(s), the Zoning Authority shall determine whether the proposed use will result in a Material Adverse Effect (MAE) or be unsuitable for the property. This determination shall be considered in the MHB's review or certification of the land use request. The level of MAE and Suitability is based on a demonstration and information provided by the applicant. A demonstration by the applicant will show suitability of a site for the proposed use based on the criteria listed in the USP. The demonstration/information provided to the Zoning Authority to determine the level of material adverse effect may include BMPs, which may minimize material adverse effect to the Corridor.

Section H - Uses Within the Corridor

H.1. Purpose

The purpose of regulating land uses within the corridor is to maintain the existing environmental quality of the Mississippi River, the Headwaters Lakes and their shoreland and to prohibit new uses which are incompatible with the intent of this Plan. These land use controls will thus protect the economic and environmental values of the Corridor and promote sustainable growth and development.

H.2. Permitted Uses, Conditional Uses, and Nonpermitted Uses

All of the following land uses are subject to the provisions promoted by the Unified Site Plan and the Stormwater Management sections of this Plan. Other sections may also apply to specific uses. Local, state, and federal regulations may also apply to specific land uses.

In the following table for land uses: "P" means the land use is permitted in the Corridor and may be subject to local controls; "C" means a conditional use permit is required; and "N" means that the land use is not permitted.

Land uses not listed as permitted or as a conditional use in this table are not permitted in the Corridor.

Land uses on Headwaters Lakes shall be governed by the individual county shoreland ordinances. However, the provision of this Plan may contain terms which impose limitations on land use on Headwaters Lakes. These use limitations shall apply to lands on Headwaters Lakes in addition to those of the individual county shoreland ordinances.

LAND USE TABLE FOR RIVER CLASSIFICATIONS

<u>LAND USE</u>	<u>CLASSIFICATIONS</u>	
	<u>RIVER WILD</u>	<u>RIVER SCENIC</u>
Agricultural Uses (as identified in Section L)	P	P
Bed and Breakfast (Section R)	C	C
Boat Access, Public (Section U)	C	C
Boat Access, Private (Section S)	N	N
Campground, Open Space, Recreation (Section R)	C	C
Cemetery (Section Q)	N	C
Communication Towers (Section N)	N	N
Decks (Section F)	P	P
Essential Services (Section N)	P	P
Forestry (Section M)	P	P
Grading and Filling (Section K)	C	C
Manufactured Homes (Section H)	P	P
Planned Unit Developments (New) (Section T)	N	C
Planned Unit Developments(ModifyExisting) (Section T)	C	C
Private Roads & Unpaved Public Roads (Section O)	C	C
Public Lands Management (Section U)	P	P
Public Roads (See also Grading & Filling) (Section O)	P	P
Public Recreational Trails-Non Motorized (Section O & U)	C	C
Public Recreational Trails-Motorized C		N
Resort (Section R)	C	C
Resort Conversions (Section R)	C	C
Sand, Gravel, and Borrow Pits (Section P)	N	C
Signs Necessary for Public Health, Safety, Recreational Use, and Identification (Section S & U)	P	P
Signs Visible from off-shore (Section S)	N	N
Single Family Residential (Section H)	P	P
Stairways, Lifts and Landings (Section F)	P	P
Travel Trailers and Campers (Section H)	C	C
Underground Mining (Section P)	N	N
Utility Transmission, Gas, and Power Lines (Section N)	C	C
Water Oriented Accessory Structures (Section H)	N	N
Wetlands Establishment or Restoration (Section K)	P	P

Wildlife and Fish Habitat Improvement (Section K) P P

H.3. Manufactured Homes

Manufactured homes shall be subject to the following conditions:

1. All County minimum dimensional standards and sanitary provisions shall apply to single family residential structures and uses.
2. Manufactured homes shall have their wheels and running gear removed and shall be placed on a permanent foundation.
3. Manufactured homes shall be at least 35 feet in length.
4. All other conditions that may be required by the County zoning ordinance or subdivision regulations.

H.4. Travel Trailers or Campers

Travel trailers or campers shall:

1. Be subject to all minimum dimensional standards and sanitary provisions of this Plan that apply to single family residential structures and uses.
2. Not be used for the purpose of permanent occupancy.
3. Be subject to all additional conditions that may be required by the County zoning ordinance or subdivision regulations.

H.5. Water Oriented Accessory Structures

Water Oriented Accessory Structures (WOAS) may be permitted on the headwaters lakes (not on the river) with the following restrictions:

1. WOAS shall not include Boathouses
2. WOAS shall be placed outside the Shore Impact Zone
3. WOAS shall be placed outside of a bluff or steep slopes
4. WOAS shall be allowed only on lakes and if allowed by local zoning ordinances
5. WOAS size limits are: no larger than 144 sq. ft and 12-½ feet height at peak of roof
6. WOAS shall be at least 3 feet above Groundwater and/or the OHWM
7. WOAS shall have no water or sewer
8. WOASs are limited to one structure per property
9. WOAS shall be located outside of the flood plain
10. “With regard to the appearance of the WOASs, they shall be made as compatible as practicable with the natural areas as design limitations allow with regard to materials used and color.”

Section I - Water and Sanitary Provisions

I.1. Domestic Water Supply

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

I.2. Well Standards

Any public or private well constructed to supply water for domestic purposes shall be constructed in accordance with the standards and regulations of Minnesota Department of Health as set forth in Minnesota Rules Chapter 4725.

HEADWATERS ALERT

Wellhead protection is a method of preventing well contamination by effectively managing potential contaminant sources in all or a portion of a well's recharge area. The MHB strongly urges well owners and operators to comply with Minnesota Department of Health standards and guidelines when their wells are subject to Minnesota Rules 4720.5100 to 4720.5590 for Wellhead Protection Planning. Source Water Protection requires the hydrologic complexity of surface with ground water interaction be considered for uses that may be located within a zone of contribution and may impact a public or private water source.

I.3. Public Waters Setback

The standards for ISTS setback from public waters, in Section III-F of this Plan, supersede the standards of state and local rules, unless the local rules are more restrictive than the standards of this Plan.

I.4. Public Sewage Treatment Systems

Publicly-owned sewage treatment systems must be used where available.

HEADWATERS ALERT

The MHB also encourages the establishment of public service districts (such as subordinate service districts described in MN Statutes 365A) to develop and implement neighborhood and community sewage treatment systems. These community systems and drainfields are organized by the local township and provide relief to neighborhoods where individual properties may not have the required lot area for a conforming septic system.

I.5. Private Sewage Treatment Systems

All private sewage treatment systems must meet or exceed applicable rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency, specifically Minnesota Rules, Chapter 7080, for individual sewage treatment systems (ISTS).

Section J - Stormwater Management

J.1. Consideration

Proper stormwater management must be considered in all reviews, approvals, and permits related to this Plan. It is recommended that best management practices and the stormwater management guidelines set forth in Local County Water Plans serve as the standards for this management process.

J.2. Review Provisions

If not already included in Local County Water Plans, the following provisions shall be considered in reviewing proper stormwater management:

- a. **Natural Features To Be Used.** Existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff if there is any discharge to public waters.
- b. **Constructed Facilities May Be Used.** 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 man-made materials and facilities.
- c. **Minimize Disturbance.** Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible with facilities or methods used to retain sediment on site.
- d. **New Development.** Permits for unimproved lots and applications for conditional uses, variances, and land subdivisions or plats must meet the following standards:
 - i. Impervious surface coverage of the lot, including roadways and parking areas, must not exceed 25 percent of total area.

- ii. Stormwater management Facilities must meet the standards of the local Soil and Water Conservation District or other acceptable standards.
- iii. Stormwater outfalls to the Mississippi River and the Headwaters Lakes must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- iv. The Zoning Authority shall require a USP if the impact proposed or existing impact 1) exceeds 5% of impervious surface with the Shore Impact Zone; or 2) exceeds 15% of impervious surface from the Shore Impact Zone to the Building Setback line; or 3) overall impervious surface on the lot exceeds 25%.
- v. New development must consider source water protection, such as wellhead delineation or proximity to a public or private well.

Section K - Shoreland Alteration

K.1. Purpose

Alterations of vegetation and topography will be regulated to prevent erosion to public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, preserve corridor for movement of wildlife, protect fish and wildlife habitat, conserve cultural resources and to preserve the scenic and aesthetic character of the shoreland. These Best Management Practices for shoreland alterations will protect the water quality of the River and will therefore sustain the economic values in the corridor.

The regulations for shoreland alterations set forth in this Plan, Minnesota Rules Chapter 6120, or any county shoreland regulations which are more restrictive shall apply

K.2. Vegetation Management Provisions

Vegetation alteration in the Corridor is allowed with the following provisions. Vegetation alteration shall be addressed in a USP if more than 15% of the existing vegetative cover is removed.

- a. **Exemptions.** Forestry uses, agricultural uses, and the construction of roads and rights-of-way regulated by county road building standards are exempt from the MHB vegetation alteration standards in b and c below.
- b. **Limited Vegetation Clearing.** In the Corridor and/or areas with bluff impact zones and/or areas of steep slopes, limited removal 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 and access paths, provided that:

- i. Removal does not exceed 25% of the existing vegetation, and erosion and sedimentation are minimized.
 - ii. The vegetative screening of structures, vehicles or other facilities is maintained.
 - iii. The vegetative shading of water surfaces is maintained; and
 - iv. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- c. **Intensive Vegetation Clearing.** Intensive vegetation clearing within the setback and bluff impact zones and/or areas of steep slopes is not allowed. Intensive vegetation removal outside the setback, and not involving a bluff impact zone or steep slopes, for forestland conversion to another use is allowed as a conditional use. This conditional use shall require a Unified Site Plan showing mitigation plans for the control of negative impacts.

K.3. Grading, Filling, Alterations in the Beds of Public Waters

- a. **Permit Required.** The Zoning Authority shall allow a one-time permit for 10 cubic yards of fill material. Any additional grading or filling work done within the Corridor shall require a conditional use permit and shall comply with the BMPs listed below:

Grading and filling of the natural topography that is accessory to a permitted or conditional use shall be performed in a manner which minimizes earth moving, erosion, storm water run-off, tree clearing and the destruction of natural amenities. A USP may address these practices and shall be approved by the Zoning Authority.

A grading or filling permit may be issued only if the following Standards and BMPs are met:

- b. **Standards.** Grading and filling of the natural topography shall also meet the following methods and practices:
- i. The smallest amount of bare ground is exposed for as short a time as feasible.
 - ii. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted.
 - iii. Methods to prevent erosion and to trap sediment are employed.
 - iv. Fill is stabilized to accepted, professionally recognized standards.
 - v. Fill or excavated material is not placed in a manner that creates an unstable slope.
- c. **Steep Slopes.** Plans to place fill or excavated material on steep slopes are reviewed by a qualified professional, such as the SWCD or a licensed engineer, for

continued slope stability and in no case may create finished slopes of 30 percent or greater.

- i. Fill or excavated materials are not placed in bluff impact zones.
- ii. Disturbed areas are restored in the same building season.

K.4. Altering Current or Cross Section of Public Waters

The excavation of material from, filling in, construction of any permanent structures or navigational obstructions, or any work that will change or diminish the course, current, or cross-section of the Mississippi River, Headwaters Lakes, or wetlands in the Corridor, is prohibited unless authorized by a permit from the Commissioner of the Department of Natural Resources pursuant to Minnesota Statutes, Section 103G.245, and/or a permit from the US Army Corps of Engineers.

K.5. Drainage or Filling of Wetlands

Drainage or filling in of wetlands within the Corridor must be in compliance with the Wetland Conservation Act. The replacement and/or mitigation activities for the filling of a wetland in the Corridor, should take place in the Corridor.

Section L - Agricultural Practices

L.1. Conservation Plan Consistency

General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and bluff impact zones are maintained in permanent vegetation and operated under an approved conservation plan consistent with the field office technical guide of the County Soil and Water Conservation District. Recommendations of the publication "Agriculture and Water Quality," Minnesota Pollution Control Agency, 1989, are the minimum standard for agricultural practices in the River Corridor. The Zoning Authority or its designee will be responsible for the proper review of the Conservation Plans intended to minimize erosion and to protect water quality.

L.2. New Animal Feedlots Prohibited

New animal feedlots, as defined by the Minnesota Rules Chapter 7020, are not permitted in the river corridor.

L.3. Existing Feed Lots

Animal feedlots, barnyards, or agricultural waste systems in existence prior to July 1, 1992, may continue provided neither the size of the area involved in the use or the number

of animal units using the area increases. The County Feedlot Officer's feedlot registrations will serve as the means for this monitoring.

Section M - Forestry

M.1. Purpose

Forest management shall be allowed but limited to generally accepted forest management practices and/or silvicultural techniques designed to promote and manage a healthy, diverse, and productive forest area. Emphasis should be placed on the maintenance, development, and improvement of shoreland forests subject to the regulations set forth in this section. The manual "Sustaining Minnesota Forest Resources", MN Forest Resources Council, 1999, is a publication that suggests relevant forestry practices.

The vegetation management goals for the Corridor shall be for the maintenance and regeneration of naturally appearing, healthy forest vegetation, through the application of generally accepted forest management practices and/or silvicultural techniques. Strategies to maintain or create a forest condition that is naturally and historically suited to the Corridor, such as a diversity of tree species, forest age classes and forest patch sizes, will be encouraged.

Plan requirements for forest management within the Corridor.

- i. The view from the water will be treated as most sensitive;
- ii. Provision for riparian wildlife species must be a component of any plan;
- iii. Significant cultural and other unique resources must be protected;
- iv. Water quality changes due to forestry activities must be minimized; and
- v. Timber and other forest resources may be harvested and utilized when the requirements of this Plan are met.

M.2. Forestry Standards in the Corridor

If the activity is proposed to occur within 300 feet of the OHWM, a forest management plan for the property and/or site-specific timber harvest plan must be prepared prior to forestry activities occurring on the property. The plan must be submitted to and approved by the County Land Commissioner, or other designated county official, and must have been reviewed by MHB. Implementation of the Forestry Management Plan must comply with the submitted and approved plan. Forestry activities requiring a plan include timber harvesting, intensive site preparation, and forest access road construction.

Approval of plans shall be based upon how well the plan addresses the goals of the MHB and the following information:

- i. A Unified Site Plan;
- ii. Mapping of forest types;
- iii. Silvicultural practices and forest regeneration plans; and

- iv. Timber access roads and trails.

The plan must also include provisions to address and protect:

- i. Water quality;
- ii. Forest soils;
- iii. Erosion control;
- iv. Aesthetics;
- v. Wildlife and aquatic habitat;
- vi. Cultural or historic resources known to occur on the property;
- vii. Fire hazards, insects, and diseases; and
- viii. Disposal of petroleum products, trash, and hazardous substances.
- ix. Endangered or threatened resources known to occur on the property.

M.3. Recommendations for Forestry Practices to Address Riparian Forest Values

To prevent damage to soils, timber harvest activities may only take place when the ground is frozen or when the soils are sufficiently dry. Post-operational activities should include plans for removal of equipment and timber before spring thaw, and to restore timber removal on trails and landings to reduce soil erosion and compaction.

To reduce potential erosion and sedimentation, seed grasses and install water bars on roads or trails developed during timber harvest activities. Minimal soil disturbance should occur in the shore impact zone.

To maintain or enhance habitat characteristics for riparian forest wildlife species, retain as many mature long-lived tree species and dead, standing trees as possible after a timber harvest. Logging residue (limbs, unmerchantable logs) disbursed across the harvest area can provide habitat for many species of wildlife.

To maintain or enhance the visual quality of the Corridor, minimize logging residue adjacent to the shoreline and public roads. Utilize irregular timber harvest boundaries, and retain some mature, long-lived trees during harvest, to reduce the apparent size of the harvest area.

Section N - Utility Transmission Lines and Related Facilities

N.1. Purpose

It is essential to regulate utility transmission crossings of lands within the jurisdiction of Corridor in order to provide maximum protection and preservation of the natural environment and to minimize any adverse effects, which may result from such utility crossings.

As well as providing environmental protection, proper location and construction of Utilities can promote smart growth in the Corridor through the placement of major utilities in or near areas that are most suitable for development.

N.2. Permits Required for Crossings

Transmission Utility lines crossing lands within the Corridor require a conditional use permit from the Zoning Authority, or its designee, and/or other regulatory authorities. In reviewing permit applications for such crossings, primary consideration should be given to crossings that are proposed to be located with, or adjacent to existing public facilities, such as roads and utilities.

A conditional use permit is not required for essential services as defined in this Plan.

A transmission utility crossing of public water requires a permit from the Commissioner of the MnDNR pursuant to Minnesota Statutes, Sections 84.415 or 103G.245.

N.3. Satisfaction of Standards

For each of the standards listed below, the applicant shall indicate how considerations are satisfied. In dealing with route design considerations the applicant must, where applicable, also supply data on relevant site conditions. The Zoning Authority or its designee may issue a conditional use permit only if the applicant demonstrates satisfaction of these standards. These standards must include, but are not limited to:

- a. Transmission Utility lines must be located outside of the Corridor wherever practicable.
- b. If the transmission lines are proposed to cross any lands within the Corridor, then the applicant must make the following standards information available to the Zoning Authority for evaluation by that office. The Zoning Authority will then make recommendations to assist in the permitting process for utility crossings. That information must include land use, vegetation alterations, grading and filling, soil characteristics, erosion mitigation plans, public safety considerations, visual appearance mitigation plans, and right-of-way best management plans for maintenance.

No conditional use permit will be required for those high voltage lines regulated exclusively by the Environmental Quality Board or other state agency.

N.4. Wireless Telecommunication

Wireless telecommunication such as but not limited to any ground or roof mounted structure of more than 35 feet in height above average ground level built for the purposes of supporting, elevating or attaching antenna (s) for broadcasting of cellular, personal

communications, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services shall not be located within the Corridor.

Section O - Roads, River Crossings, and Recreational Trails

O.1. Roads and River Crossings

It is essential to regulate the construction of new public roads and reconstruction of existing public roads within the Corridor in order to provide maximum protection and preservation of the natural environment and to minimize any adverse effects which may result from such development. By allowing the Local Government Units (LGUs) this local control of the road standards as stated below, the MHB will be assisting in limiting redundancy and also reducing costs for the planning of public transportation.

A permit as established in Minnesota Statutes Section 103G.245, is required from the Commissioner of Natural Resources for the construction or reconstruction, removal, or abandonment of any road or railroad crossing, of a public water.

O.2. Road Standards

This Plan recognizes the advances that the state, the counties, and townships have made in improving their specifications for road construction, which promote and implement the standards as set forth in the 1992 Mississippi Headwaters Management Plan. Therefore, under this Plan, the MHB accepts the newer local government standards, and makes the Local Government Units (LGUs) responsible for upholding these current standards and reporting any non-standard road construction practices to the MHB.

LGUs are required to have established road standards that are included in the county ordinances and certified by the MHB. LGUs shall notify the MHB of upcoming road projects and shall submit a summary of the road project with a site plan to MHB for review and comment.

Construction of public roads is a Permitted Use in the Land Use Table of this Plan. Construction of driveway accesses is a Permitted Use. Construction of private roads requires a conditional use permit and must comply with the Grading and Filling provisions in Section III-K of this Plan.

O.3. Recreational Trails

a. Purpose

By allowing the minimum standards for trails along the MHB corridor, MHB intends to enhance recreation and provide equivalent protection of the River and Headwaters Lakes for recreational use along the Mississippi River. Some areas

may not be suitable for trail development after assessment using the trail suitability considerations below.

b. Permits

New public recreational trails shall only be permitted in the Scenic River Classification and the Headwaters Lakes. Trails are permitted in the Scenic River sections and on Headwaters Lakes. The Zoning Authority must have established and maintained ordinances and standards that have been certified by the MHB. The following minimum elements are required for certification.

- i. Preapplication Conference. A preapplication meeting with the neighboring land owners, LGU, DNR and local association representatives, onsite, to go over a proposed or concept plan for the development.
- ii. Trail Suitability Considerations.
 1. Drainage - existing and proposed drainage patterns, storm water and high water events.
 2. Erosion - mitigation of high erosion conditions.
 3. Environmental Assessment Worksheet - used and as a scoping document.
 4. Topography and land alterations.
 5. Wet lands and water table separation.
 6. Bank stabilization.
 7. Geographical features - streams, roads, buildings vegetation, etc.
- iii. Layout and Design
 1. Trail map showing location and topography
 2. Disturbance to shore, bluffs and vegetation
 3. Impact on cultural heritage sites.

c. Standards

Recreational trails shall be a conditional use within the building setback area, and a permitted use outside the setback area, when the following items are addressed:

- i Land easements or acquisitions are attained from landowners.
- ii The plans for ongoing maintenance and funding of the trails shall be described in a USP which shall also address the items in Section III-G of this Plan as well as each of the following elements:
 1. Repair and maintenance of hard/asphalt surfaces so as to prevent the leaching of petroleum, alkaline or other potentially detrimental materials from the trail into the River/Headwaters Lakes.
 2. Maintain the Best Management Practices for sites from initial construction throughout the life of the trail sites.
 3. To address existing drainage patterns, storm water and high water events, the USP map shall show where water will concentrate on the property, areas of overland flow, depressions, scales, and

- natural watercourses. Increased runoff should be limited or mitigated so erosion does not occur.
4. Address topography, a topographic map showing contour elevation of 10 feet, noting steepness and length of slope. The longer the slope, the greater is the potential for erosion.
 5. Address soil types for flood hazard, natural drainage, depth to seasonal water table permeability, shrink swell potential, texture and erodability.
 6. Show existing vegetation, any denuded or exposed areas, and unique vegetation. If existing vegetation cannot be maintained, then construction shall be conducted to minimize erosion. The vegetative buffer of native grasses, shrubs and trees will be maintained for at least 15 feet from the water's edge in order to protect water quality, provide habitat for wildlife and maintain the natural aesthetic of the shoreline.
 7. Identify, preserve, and avoid disruption of cultural heritage sites.
 8. Delineate geographic feature areas adjacent to the trail on the map such as but not limited to streams, roads, houses, other buildings, and wooded areas.

iii. The trail base shall:

1. Be designed to drain away from the River or Lakes as much as possible.
2. Be placed above the ordinary high water mark
3. Provide at least a 15-foot natural vegetative buffer zone between the River/Headwaters Lakes and also the trail and on the opposite side of the trail.
4. Be constructed with the least amount of disturbance to shoreline, bluffs, and vegetation
5. Maintain bank stabilization without excessive grading and filling.
6. Be prepared to reduce washout during flooding, erosion during rain events, and to prevent loss of life and property.
7. Width should be minimized whenever possible and should follow state aid standards for trails and may be less in areas where appropriate. This should provide eligibility for federal funding for trails.
8. Convert street beds or existing trails wherever possible.
9. Coincide as much as possible with the Great River Road.
10. Maintain separate trails for conflicting trail uses as much as possible.
11. Avoid wetlands and other vulnerable or sensitive sites areas.
12. Maintain 3-8% slope for handicapped accessibility where possible.
13. Trails shall be the only structures permitted in the first 50' from the OHWM. Other structures shall adhere to the building standards of this Plan.

- iv. Subject to the minimum standards outlined in this Plan, consideration must be given to facilities required to support trail usage, including but not limited to, the following:
1. Access points must have adequate parking and signage
 2. Adequate and maintained trash receptacles
 3. Shaded lighting where needed
 4. Informational kiosks regarding safe and responsible recreation
 5. GPS location for 911 emergency purposes
 6. Public restrooms consisting of sealed systems
 7. Picnic tables/shelters, benches, fire pits or grills, and telephones for emergency purposes.

All of the above must provide equivalent protection of the river/lakes. Equivalent protection may be achieved through mitigation of potential negative impact to the shoreline, wildlife habitat and other river/lake values that are protected by the MHB.

d. **Rerouting**

A Conditional Use Permit shall be required for any realignment or re-routing of areas or segments of existing public trails located in the Wild River Classification in which formal review has determined these segments or areas may be creating or causing a negative impact to the Mississippi River Corridor.

Section P - Sand, Gravel, and Borrow Pits

P.1. Purpose

Regulation of extraction or extractive uses in the Corridor protects the hydrogeologic connectedness of groundwater and surface water that may be drinking water sources.

P.2. Extraction

Extraction, processing of extracted materials, or accessory extractive uses are not allowed in the Wild sections of the Corridor or on Headwaters Lakes. Extraction, processing of extracted materials, or accessory extractive uses is a conditional use in the scenic sections of the river corridor, provided the standards in this section and of the local zoning authority are met.

P.3. Site Development and Restoration Plan

The Zoning Authority shall prepare and approve a site development and restoration plan for each use developed after July 1, 1992. The plan must include a USP, which addresses the items in Section III-G of this Plan, as well as the following points:

- Dust abatement
- Noise abatement
- Discharge of materials and petroleum products that may be pollutants

Hours of operation, dates of operation and duration of activity
Proposed mitigation of effects on wildlife

Erosion control and proposed mitigation for erosion
 Identification of cultural sites
 Consideration of alternate existing sites ~~and~~
 Restoration of the land
 Rehabilitation plans shall include clean fill only

Sites that have been in operation prior to July 1, 1992, must prepare rehabilitation plans for the site that include erosion controls.

HEADWATERS ALERT

A gravel pit is an open conduit to the aquifer and requires special consideration.

Section Q - Cemeteries

Q.1. Cemetery Development is Conditional Use

Development of a cemetery within the River Corridor is a conditional use in the Scenic River class provided the standards in this section are met. Cemetery development is not allowed on Headwaters Lakes or in the Wild River class.

a. Site Plan

A USP shall be submitted to and approved by the Zoning Authority. The USP shall address those items in Section III-G of this Plan and shall also address each of the following items:

- i. Name of the cemetery;
- ii. Legal description of the property affected;
- iii. Names and addresses of applicant, owner, surveyor, and designer of the plan;
- iv. Graphic scale;
- v. Arrow depicting north on the plan;
- vi. Date of preparation;
- vii. Total acreage of property;
- viii. Square footage for each proposed site
- ix. Existing soil conditions and topographic contours
- x. Roads and proposed roads showing right of way widths;
- xi. Proposed location and type of on-site sanitary treatment facilities and domestic water supply
- xii. Accessory facilities, existing or to be constructed, by type and location; and
- xiii. All streams, creeks, ponds, wetlands, and swamps.
- xiv. Appropriate drainage provisions

- b. **Activities Allowed**
Burial only is allowed on site. No embalming or other related activities are allowed on site.
- c. **Flood Plain Restrictions**
No placement of graves or accessory facilities within the designated flood plain.
- d. **Grave Liner Approval Required**
Each burial must be in a vault or grave liner approved by the Mississippi Headwaters Board.

Section R - Campgrounds, Resorts, and Bed and Breakfasts

R.1. Campgrounds

- a. **Conditions for Expansion**
Expansion of a campground by more than 2 units from the number normally in use prior to July 1, 1992, must comply with the standards in this subsection and requires a conditional use permit.
- b. **Unified Site Plans**
USPs for all proposed new campgrounds, or expansions of existing campgrounds, shall be submitted to the Zoning Authority.

The USP shall include the items identified in Section III-G of this Plan, and shall also include the following information:
 - i. Square footage of each proposed camping site.
 - ii. Proposed location of on-site wastewater treatment systems and drinking water supplies.
 - iii. Recreational and accessory facilities, existing or to be constructed, by type and location, including, but not limited to, lodges, sheds, swimming pools, tennis courts, laundries, convenience stores, boat storage, and fish cleaning houses.
- c. **Density Requirements**
Campgrounds must comply with the following density and length of stay requirements.
 - i. Campground: 8 units per acre; 4,000 square feet each site; minimum width 40 feet each campsite.
 - ii. Camping on an individual campsite per party is restricted to 14 consecutive days or less at one time without an RV.
 - iii. Recreational Vehicle Park Campground: 4 camping vehicle units per acre; 8,000 square feet each camping site; minimum width for each camping site is 80 feet.
- d. **Accessory Structures Prohibited**
No accessory structures shall be permitted on any campsite.

- e. **Access Roads**
All roads shall have a 50-foot minimum right of way. One-way roads within the campground must have a roadbed of at least 15 feet in width. Two-way roads within the campground must have a roadbed of at least 24 feet in width.
- f. **Setbacks and Sewage Treatment Systems**
Each camping site must meet the building setback requirements of this Plan, and also the individual sewage treatment system standards of this Plan and the Minnesota Rules 7080.
- g. **Licensing**
Campgrounds shall be licensed by and shall meet all standards prescribed by the Minnesota Department of Health and other state agencies with regulatory authority over such uses, as well as the standards set forth in this Plan.
- h. **Conditional Use Permit Considerations**
When reviewing an application for a conditional use permit for any campground, the Zoning Authority shall evaluate the effect of the proposed campground with regard to the following criteria:
 - i. Maintenance of safe and healthful conditions;
 - ii. Prevention and control of water pollution, including sedimentation;
 - iii. Existing topographic and drainage features and vegetative cover on the proposed site;
 - iv. The location of the site with respect to the flood plains and the flood ways of the Mississippi River;
 - v. The erosion potential of the site based upon the degree and direction of slope, soil type, and vegetative cover;
 - vi. The location of the site with respect to existing or future township, county, state or federal roads; and
 - vii. The compatibility with uses on adjacent lands.

R.2. Resorts

- a. **Expansion**
Expansion of a resort shall not be allowed without the issuance of a conditional use permit, with the following exceptions.

The expansion to an existing resort (PUD) involving six or fewer new units or sites, after the date of this Plan, shall be allowed as a permitted use, with the issuance of a building permit, provided that:

- i. The total project density does not exceed the allowable densities prescribed in MN Statutes Chapter 103, MN Rules 6120.2500 to 6120.3900 as amended; and
- ii. The septic system is assessed to be large enough for the increased units.
- iii. The work shall comply with the requirement of M.S. 103F.227.

b. **Review Criteria**

When reviewing an application for a conditional use permit for construction of a new resort or expansion of an existing resort, the Zoning Authority shall evaluate the effect of the proposed resort or resort expansion with regard to the criteria in MN Statutes Chapter 394 and the following criteria:

- i. Maintenance of safe and healthful conditions;
- ii. Prevention and control of water pollution, including sedimentation;
- iii. Existing topographic and drainage features and vegetative cover on the proposed site, and proposed alterations with mitigation;
- iv. The location of the site with respect to the flood plains and the floodways of the River;
- v. The erosion potential of the site based upon the degree and direction of slope, soil types, shoreline stability, and vegetative cover;
- vi. The location of the site with respect to existing or future township, county, state or federal roadways;
- vii. The compatibility with land uses on adjacent lands;
- viii. Appropriate density is determined on the lot;
- ix. The septic system is up to code; and
- x. Additional local restrictions may apply.

c. **Unified Site Plan**

A USP for all proposed resorts and resort expansions and conversions that require a conditional use permit shall be submitted to the Zoning Authority. In addition to the items in Section III-G of this Plan, the USP shall include:

- i. Total acreage of property, including boundaries;
- ii. Total dimension of dedicated property;
- iii. Proposed location and type of on-site sanitary treatment facilities and domestic water supply;
- iv. Recreational and accessory facilities, existing or to be constructed, by type and location, including, but not limited to, lodges, sheds, swimming pools,

tennis courts, laundries, convenience stores, boat storage and fish cleaning houses;

- v. Existing or proposed marinas, harbors, and/or any docking facilities.

d. **Licensing**

Resorts shall be licensed and shall meet all standards of the Minnesota Department of Health. In the event of conflict between those regulations and the regulations of this Plan, the more restrictive standards shall apply.

e. **Resort Conversions**

Resort conversions require a conditional use permit. Existing resorts or other land uses and facilities may be converted to residential planned unit developments provided that the land is properly zoned for residential use by the Zoning Authority to the appropriate residential land use category and all of the following standards are met:

Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be corrected. Proposals must also meet the conditional use criteria standards.

Deficiencies involving water supply and sewage treatment, structure color, impervious surface coverage, open space, and shore recreation facilities must be corrected as part of the conversion and shall be specified in any conditional use permit issued.

Shore impact and bluff zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

- i. Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore impact or bluff zones;
- ii. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
- iii. If existing dwelling units are located in shore impact or bluff zones, conditions are attached to approvals of conversions that preclude exterior expansion in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements whenever they are rebuilt or replaced.

R.3. Bed and Breakfasts

- a. **Residence Requirement**
Bed and breakfasts must be contained within a single-family residence. An addition may be allowed to establish the use. A second building to establish the use is not allowed.
- b. **Rental Units**
The number of rental units is limited to no more than four, or the standards prescribed by the Minnesota Department of Health, whichever is more restrictive.
- c. **Parking**
Additional parking is limited to one vehicle per rental unit.
- d. **Septic Systems**
Septic systems must be up to code to handle the additional units.

Section S – Docks and Signs

S. 1. Signs

- a. **Signs Visible from Surface Water**
Signs visible from the river or lake are not allowed with the exception of public health and/or safety, recreational use and identification and must meet the following criteria:
 - sign must be no larger than 6 square feet in area;
 - sign must be related to a permitted use within the Corridor;
 - aesthetics of the sign must be in relation to the surrounding area;
 - no lighting of the sign is allowed
- b. **Signs Not Visible from Surface Water**
Signs not visible or completely screened from view of the river or lake are permitted, subject to local regulations.

S.2. Docks

Docks are regulated by the State of Minnesota. Proper permits shall be obtained from the Commissioner of Natural Resources. Local restrictions may apply.

Section T – Subdivision, Platting, and Planned Unit Development

T.1. Purpose

Subdivision is the practice of dividing any land parcel that is contiguous in area and under common ownership, into two or more smaller parcels. Subdivision shall be planned to provide green space to protect natural areas.

T.2. Suitability

Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis, by the Zoning Authority, or the Commissioner of Natural Resources, shall consider 100 year floodplains and susceptibility to flooding, existence of wetlands and rankings for the wetlands as may be determined by the best available information and technology, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish or wildlife habitat, proximity to significant identified cultural sites, or any other feature of the natural land likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the community. These considerations and potential BMPs must be addressed as part of the USP, for any subdivision of land.

T.3. Required Information

A USP must be submitted with proposed land subdivisions in order to evaluate the suitability of the land for this subdivision. The USP shall address the items referenced in Section III-G of this Plan.

T.4. Plat Review

Plats must conform with MN Statutes, Chapter 505. Copies of all proposed plats within the Corridor shall be submitted to the MHB and the Commissioner of Natural Resources for review at least thirty (30) days prior to the approval or disapproval of such plats by the governing body on the suitability of the land for such subdivisions.

LGUs shall not grant final approval of a plat until the developer, in addition to complying with all other requirements imposed by the LGU, has filed with the LGU a road development agreement signed by the developer and the local road authority, which agreement addresses, at a minimum, standards for road construction, a time table for construction, and financial assurances for the construction of the road according to the development agreement.

T.5. Planned Unit Developments (PUDs), Common Interest Communities (CICs), and Cluster Housing Units (CHUs)**a. Purpose**

Planned Unit Developments, Common Interest Communities and Cluster Housing Units may be allowed only when the proposed development provides a better means of preserving agricultural land, open space, woodlands, scenic views, wetlands and other features of the natural environment than traditional subdivision practices.

b. Preliminary Approval

Preliminary plans including a Unified Site Plan (See Section III-G of this Plan) are required for review by the Mississippi Headwaters Board as provided in the Administration Section of this Plan and shall be approved by the Commissioner of Natural Resources prior to their approval by the Zoning Authority.

c. Permits

PUDs, CICs, and CHUs are permitted in the Scenic River and Headwaters Lakes sections. PUDs, CICs, and CHUs are not permitted in the Wild River section. The Zoning Authority must have established and maintained ordinances and standards that have been certified by the MHB. The following minimum elements are required for application and certification.

i. Pre-Application Conference.

A pre-application meeting should be held with the Zoning Authority, property owner/developer, and neighbors, onsite, to go over a proposed or concept plan for the development to ease implementation and maximize communication between all parties. Township, county, MHB, DNR and Lake Association representatives shall be notified and encouraged to attend.

ii. On-site Impacts, including but not limited to:

- a. Setbacks from Lake and property lines; both existing and proposed.
- b. Vegetation – Restoration, landscaping and screening.
- c. Shore Impact Zones – Alterations/uses allowed and restricted.
- d. Docking – Mooring - Boat Access – Shore Stations.
- e. Buffer zones between development and adjacent property owners.
- f. Outside Lighting as it impacts neighbors.

iii. Surrounding Site Issues

- a. Traffic – To, From and Within the Development; possibility of requirements for turning lanes, improvements to existing roads and installation of new roads, access for emergency and service vehicles.
- b. Drainage – On and off property.

- c. Impervious Surface Coverage – Roads, Buildings, Etc...
- d. Environmental Assessment Worksheet – used and a scoping document
- e. Minimization and Mitigation of Potential Impacts

iv. Layout and Design

- a. Layout of Units – A registered land survey of the parcel, and if applicable, blueprints showing number of bedrooms (to scale).
- b. Density – Existing and Proposed; Increases allowable & how much (formula for determining density).
- c. Useable Land – identification of all wetlands, bluffs, steep slopes, etc.
- d. Covenants, Declarations, Restrictions – Type of enforcement, i.e. County or Homeowner Association.
- e. Dedication of open space – location of open space including who and what uses are allowed.
- f. Type of PUD/CIC/CHU – Timeshare, lease or ownership.
- g. Separate Zoning Permit required for units, septic system, shore alterations, etc.
- h. As Built – filed/recorded upon completion of structures
- i. Grand-fathered-in resorts – different setbacks/densities.

v. Septic System and Water Use

- a. Water Use and Management Plan
- b. Septic Systems – existing, new, with alternate location; & type

vi. Government Agencies

- a. Emergency Services –Police, fire, Ambulance, School District.
- b. Check List of agencies/associations who are notified of the development and their responses.
 - (1) County (Zoning, Sheriff, Engineer, Surveyor, Attorney)
 - (2) Township(s) and/or commissioner
 - (3) MN Dept. of Natural Resources
 - (4) MN Dept. of Health
 - (5) Soil and Water Conservation District
 - (6) Army Corps of Engineers
 - (7) Lake Association
 - (8) Other-

d. **Altered Standards**

Minimum setbacks and height limits may not be altered. Other dimensional standards may be altered as exceptions to the standards of this Plan, if the following criteria are met:

- i Central sewage treatment system facilities are installed which meet the standards, criteria, rules or regulations of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

- ii. There is not more than one centralized boat access facility for PUD residents only. Docking is provided by a centralized facility and there is no more than one boat slip for each unit.
- iii. Density shall not exceed two dwelling units per minimum lot size within the Corridor. Flexibility in density and dimensional standards can be petitioned with a study of Suitability and Material Adverse Effects that would provide greater vegetative buffers, improved wastewater collection and treatment, and a better means of preserving open space and natural areas.
- iv. Open space may be preserved through the use of restrictive deed covenants, public dedications, granting of scenic easements, conservation connections, or other alternative and innovative methods.

Section U - Management of Public Lands

U.1. Land Ownership

State or County lands within the Corridor may not be offered for sale or lease, “except for forest management, fish and wildlife habitat improvement, a veterans cemetery that complies with MS 102.369 subdivision 5, and open space recreational uses as defined in the plan” (MN Statutes 103F.369 Subd. 2). County tax-forfeited land in the river corridor should be retained. The MHB member counties should initiate land exchanges with private landowners who want to exchange their land to increase its public land holdings along the Mississippi River and Headwaters Lakes. Land exchanges with the State of Minnesota should be undertaken to consolidate blocks of public lands in same ownership, in order to develop more easily managed public ownership. Conservation Connections and other incentives should be implemented on sensitive private lands requiring more protection than zoning can provide.

County land commissioners will report to MHB annually on the status of public land ownership in the Corridor. MHB staff will work with State of Minnesota, United States Forest Service and Leech Lake Band of Ojibwe to monitor holdings by those agencies in the river corridor.

U.2. Sale or Exchange of Public Lands

Sale or exchange of public land should be considered only if such action(s) will eliminate substandard non-conforming parcels, make private substandard non-conforming parcels more conforming, or if such sale or exchange is consistent with the goals and objectives of this Plan. (MN Statutes 282.01 subd. 7A) Where critical lands are acquired in fee title, from willing sellers, the county may wish to consider sale of other lands outside the management boundaries in order to offset any possible reduction in local tax base. Within available funding, the counties will attempt to purchase scenic easements (conservation connections) or other interests in land, from

landowners who desire to sell them and where such purchases are desirable to protect unique shoreland areas.

U.3. Acquisition of Lands

Acquisition is an option for those public and private lands requiring greater protection than zoning provides. Lands requiring greater protection will be identified through the river resources inventory, or on an as needed basis, and according to the goals and objectives of this Plan. The MHB will report on its land protection program to identify and develop guidelines for protection and protection strategies, to the member counties, the Minnesota Legislature, the USFS and the LLBO at least every five years.

U.4. Nonrecreational Leases

New nonrecreational leases of public lands within the river corridor shall not be granted without review of the MHB for consistency with the goals and objectives of the Plan. To the extent practicable and feasible, existing non-recreational leases of public lands within the river management boundary shall be phased out. Existing recreational leases are allowed in the Corridor.

MHB staff shall meet with managers of leases on public lands to discuss the status of non-recreational and recreational leases in the Corridor.

U.5. Public Accesses with Boat Launches

a. Criteria

An MHB review is required for any public access with a boat launch. The Zoning Authority shall evaluate the proposed public access with regard to criteria established by the MnDNR and comply with the following standards:

- i. Site can support the ramp without pilings, dredging or special site preparation;
- ii. Access shall be constructed only of gravel, natural rock, concrete, steel matting, or other durable organic matter;
- iii. Boat launch shall be no more than 6 inches thick, 24 feet wide, extending 20 feet waterward or to a water depth not to exceed 4 feet, with no more than 30 cubic yards of fill and 60 cubic yards of excavation required;
- iv. Boat launch site is not a posted fish spawning site; and
- v. All soils disturbed during construction shall be stabilized by seeding or sodding in the same construction season and meet the standards for excavation, grading, and filling set forth in the Shoreland Alteration Section of this Plan.

U.6. Public Trails

MHB review is required for any new public trails within the Corridor. Standards and review criteria are listed under Section III.O.3 of this Plan.

U.7. Signs

Sign placement on public lands in the Corridor shall comply with Section III.S.1 of this Plan.

Section V - Administration

1. Authority

a. Administration

The provisions of this ordinance shall be administered by the designated Zoning Authority. Permits, approvals and certification shall expire after one year if no work has begun on the permitted project. The Zoning Authority may allow an extension of the permit for up to 12 months. Permits shall not be extended after the above described 12-month extension.

b. Board of Adjustment

The Board of Adjustment of the County shall hear and decide appeals and applications for variances and review any order, requirements, decisions, or determination made by the Zoning Authority, who is charged with enforcing this ordinance in the manner prescribed by Minnesota Statutes, Chapter 394, as amended.

c. Fees

Permit fees and inspection fees as may be established by resolution of the County or Township in support of MHB activities, shall be collected by the Zoning Authority for deposit with their treasurer and credited to the appropriate fund. Fees may be assessed based on the annual funding estimates to prepare and implement the Plan and otherwise carry out the duties imposed on the MHB by MN Statutes 103F.361-377.

V.2. Nonconforming Uses

a. Nonconforming Uses

Uses nonpermitted by this ordinance but which are in existence prior to the effective date of July 1, 1992, shall be nonconforming uses. Such uses may be continued but shall not be intensified, enlarged, or expanded beyond the permitted

or delineated boundaries of the use of the activity as stipulated in the most current permit issued prior to July 1, 1992.

b. **Change of Use**

Such use shall not be changed to another nonconforming use or be reestablished if discontinued for a continuous twelve (12) month period.

c. **Destruction of Structure**

If a nonconforming structure is destroyed by any cause, to an extent exceeding fifty percent of its fair market value as indicated by the records of the County Assessor, a future structure or use of the site shall conform to this ordinance.

d. **Maintenance**

Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted.

V.3. Substandard Uses

a. **Existing Uses**

All uses in existence prior to July 1, 1992, which are permitted or conditional uses within the Mississippi Headwaters Corridor, but do not meet the minimum lot area, setbacks or other dimensional requirements of this ordinance are substandard uses, and shall be allowed to continue provided that any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.

V.4. Conditional Uses

a. **Standards**

Prior to the granting of a conditional use permit by the Zoning Authority the applicant must show the standards and criteria contained in this ordinance have been met. The MHB shall administratively review the conditional use application and provide comments to the Zoning Authority prior to the local public hearing decision.

b. **Material Adverse Effect**

The applicant for a conditional use permit which, in the opinion of the Zoning Authority, may result in a material adverse effect on the environment may be requested by the Zoning Authority to demonstrate the nature and extent of the effect.

c. **Considerations**

In reviewing a request for a conditional use permit, the Zoning Authority shall review the standards and criteria of this ordinance and the following general criteria:

- i. The prevention of soil erosion or other possible pollution of the Mississippi River and its Headwaters Lakes, before, during and after construction;
- ii. The visibility of structures and other facilities as viewed from public waters is limited.
- iii. The site is adequate for water supply and on-site sewage treatment.
- iv. The assessment and management of natural, cultural scientific, historic and recreational values of the site is addressed; and
- v. The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of the Mississippi River, its shorelands and the Headwaters Lakes, to accommodate the proposed changes.

V.5. Administrative Reviews

a. Purpose

The MHB may authorize the its Director to make review and recommendations for conditional use applications, Forest Management Plans, Timber Harvest Plans and Unified Site Plans, as well as other plans affecting land management in the Corridor.

b. Administrative Reviews are given in order to:

- i. Facilitate a timetable due to the building season,
- ii. Meet the 60-day rule for administratively complete applications
- iii. Adhere to the requirements of other agencies which are more restrictive than those of MHB.

c. Administrative Reviews should be referred to the MHB when a request:

- i. Does not meet the criteria
- ii. Does not adhere to the requirements of other agencies
- iii. Is not consistent with the Plan.

V.6. Variances

a. Purpose

The purpose of MHB variance review is to assure that the Plan is not nullified by unjustified exemptions in particular cases and to promote uniformity in the treatment of applications for exceptions (MN Statutes 103F.373 Subd. 1).

b. Conditions

The granting of a variance requires the presence of all the following conditions:

- i. The strict enforcement of county zoning controls will result in unnecessary hardship. "Hardship" as used in connection with granting of a variance means that the property in question cannot be put to a reasonable use under the conditions allowed by the zoning provisions. Economic considerations

- alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the local zoning ordinance.
- ii. Granting of a variance is not contrary to the purpose and intent of the zoning provision contained within the Mississippi Headwaters Management Plan, its standards and criteria, and is consistent with the policies adopted by the MHB.
 - iii. There are exceptional circumstances unique to the subject property which were not created by the landowner.
 - iv. Granting of the variance shall not allow any use which is neither a permitted or a conditional use within the Corridor established in the Plan, in which the subject property is located.
 - v. Granting of the variance will not alter the essential character of the Corridor.
- c. **Material Adverse Effect**
The applicant for a variance which, in the opinion of the Board of Adjustment, may result in a material adverse effect on the environment or inconsistent with any provisions of this Plan, may be requested by the Board of Adjustment to demonstrate the nature and extent of the effect.
- d. **Certification Required**
Notwithstanding any provision of Minnesota Rules Chapter 394 to the contrary, a certified action is not effective until the MHB has reviewed the action and certified that it is consistent with the Plan (MN Statutes 103F.373, Subd. 2). All variances to the requirements of this Plan must be reviewed and certified in accordance with the Review and Certification Procedures Section of this Plan.

V.7. Amendments to Ordinance

- a. **Authorization**
In determining consistency of ordinances and ordinance amendments, the provisions of the Plan shall be considered minimum standards (MN Statutes 103F.373 Subd. 2). County ordinances regulating land use in the Corridor may be amended whenever the public necessity and the general welfare require such amendments by the procedure specified in this section. Amendments to ordinances must be reviewed and certified by the MHB as specified in the Review and Certification Procedures Section of this Plan.
- b. **Amendment Initiation**
Requests for amendments of this ordinance shall be initiated by a petition of the owner or owners of the actual property, or by action of the county.
- c. **Filing**
An application for an amendment shall be filed with the Zoning Authority.

- d. **Hearing**
Upon receipt of the application and other requested materials, the Zoning Authority shall conduct a public hearing in the manner prescribed by Minnesota Statutes.
- e. **Certification Required**
Following the public hearing, the Zoning Authority shall make a report of its recommendations on the proposed amendment and shall file a copy with the County within sixty (60) days after the hearing. MHB review and certification must be obtained as specified in the Review and Certification Procedures Section of this Plan before the proposed amendment becomes effective.
- f. **Fees**
To defray the administrative costs of processing requests of an amendment to this ordinance, a fee not exceeding administrative costs shall be paid by the petitioners. Such fee shall be determined by the Zoning Authority and/or the MHB.

V.8. Amendments to, or Adoption of the MHB Comprehensive Land Use Plan

- a. **Purpose**
To amend the plan in such a way that does not reduce the minimum standards set forth in the plan, and when it is necessary, to do so in the most environmentally sound and cost-effective manner. MN Stat. 103F.369.Subd. 2.
- b. **Process**
A schedule for review and/or possible revision of the plan shall be completed every 5 years by MHB. Any revision shall be submitted to the Counties for public hearings and approvals. Upon approval by all 8 counties, and compliance with the statute, the amendment shall be effective. Adoption of amendments is optional for other government units. It is the responsibility of other government units to exercise their powers so as to further the purposes of the Statute and the MHB Plan (MN Stat 103F. 371.) In the event that proposed revisions are not approved, the existing plan will be maintained.

Section W - Review and Certification Procedures

W.1. Applicability

- a. **Actions Covered**
The review and certification procedures are established for the following categories of land use actions directly or indirectly affecting land use within the area covered by the Plan:

- i. Adopting or amending an ordinance regulating the use of land, including rezoning particular tracts of land;
 - ii. Granting a variance from a provision of the local land use ordinance which relates to the zoning dimension provisions of this Plan; or
 - iii. Approve Plats in accordance with M.S. 505 and PUD's and CIC's in accordance with M.S. 515B.
- b. **Review Required**
 No such local action shall be effective until the Mississippi Headwaters Board has reviewed and certified the actions.

W.2. Procedures

- a. **Notice of Hearings**
 A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider zoning amendments, variances or plats under the local ordinance shall be received by the MHB at least two weeks prior to such hearings or meetings to consider such actions. The notice of an application shall include a copy of the proposed ordinance or amendment, or a copy of the proposed plat, or a description of the requested variance.
- b. **Administratively Complete Applications**
 An administratively complete application is required for review by the MHB and shall include the following items:
 Application form
 Unified Site Plan and Map
 Findings of Fact
 Minutes of the Zoning Authority decision
 -or-
 Copy of the Proposed Plat
 Copy of the Ordinance or Amendment to Ordinance

Applicants may authorize a Waiver from the 60-day Rule in order to continue a review process by the Board and without needing to reapply.

- c. **Notification**
 The local authority shall notify the Mississippi Headwaters Board of its final decision on the proposed action, within 10 days of the decision, including copies of the Findings of Fact, minutes of the public hearing, and amendments or conditions to the action.
- d. **Certification Decision**
 The MHB shall, no later than 60 (sixty) days from the time they receive notice of the final decision, communicate to the local authority either:
 Certification of approval, with or without conditions; or

Notice of non-approval.

- e. **Approval**
The Certification of Approval becomes effective upon notification to the applicant and the Zoning Authority.
- f. **Non-approval**
In the case of notice of non-approval of an ordinance or a variance or plat, either the applicant, or the Zoning Authority may, within the thirty (30) days of said notice, file with the MHB a demand for hearing. If the demand for hearing is not made within the thirty (30) days, the notice of non-approval becomes final. Also:
 - i. The hearing shall be held in the county seat of the county to which the action applies, within 60 days of the demand for it but not before two weeks published notice. Notice and the conduct of the hearing and the allocation of costs of the hearing shall be accomplished in the same manner as provided in Minnesota Statutes, Section 103G.311 as amended.
 - ii. Within 30 days after the hearing, the MHB shall either certify its approval of the proposed action, or deny it. The decision shall be based upon findings of fact made on substantial evidence found in the hearing record.
- g. **Sunset Clause**
The Certification of Approval shall expire after one year if no work has begun on the certified activity. With MHB notification, the Zoning Authority may allow an extension of the certification for up to 12 additional months. Certification shall not be extended after the above-described 12-month extension.

Section X - Other Government Actions

X.1. Furtherance of Plan Required

Local and special governmental units, councils, commissions, boards and districts, and all state agencies and departments must exercise their powers to further the Mississippi Headwaters Management Plan and this ordinance as provided in Minnesota Statutes Section 103F.371. Land use actions or activities directly affecting land use in the Corridor, including projects wholly or partially conducted, financed, permitted, assisted, regulated, or approved by governmental units or state agencies or departments must comply with this Plan or the governmental units or state agencies or departments must notify the MHB prior to approving the action or activities provided in this Plan.

X.2. Consistency Determination

The MHB shall determine whether a governmental action or activity furthers the Plan. Prior to approving an activity or action, a governmental entity that does not comply with this Plan must send a notice of any public hearings or meetings where the governmental action or activity will be considered to the MHB at least 15 days before the hearings or meetings. The MHB shall determine whether the activity or action is consistent with Minnesota Statutes Section 103F.371. If the MHB determines an action is not consistent, the governmental entity should work toward compliance with this Plan as outlined in the mutual agreements between the government entity and the MHB.

Section Y - Enforcement

Y.1. Violations

It is declared unlawful for any person to violate any of the terms and provisions of this Plan. Violation thereof shall be a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense. Applications for an activity within the corridor will be considered only if there are no outstanding violations on that property.

Y.2. Restraint of Violations

In the event of a violation or a threatened violation of this Plan, the Zoning Authority or the MHB, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain or abate such violations or threatened violations.

Y.3. Specific Performance

Any person or resident may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Plan.

Y.4. Severability

The provisions of this Plan shall be severable, and the invalidity of any section, subsection, paragraph, subparagraph or subdivision or any other part thereof shall not make void any section, subsection, paragraph, subparagraph, or subdivision or any other part. If any court of competent jurisdiction shall adjudge invalid any provision of this Plan or the application of this Plan to a particular property, building, or other structure, the judgment shall not affect any other provision of this Plan or any other property, building or structure not specifically included in the judgment.

Y.5. Effect

This Plan shall have full force and effect from and after its passage, approval, and publication by law.

GLOSSARY:

Definitions
Abbreviations and
Acronyms

GLOSSARY

All terms may not be included in the Plan document text, but may be defined herein for purposes of discussion.

Definitions

Abrogation. Abolish, annul, or repeal.

Accessory Use or Structure. A land use or structure which is subordinate to and serving the principal use or structure and customarily incidental to the land use district in which the use and/or structure is located.

Agricultural Easement: A restrictive covenant placed on residential developments adjacent to agricultural land waiving all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent land.

Agricultural: Real or personal property used for the production of crops, tillage, husbandry, or farming including but not limited to, fruit and vegetable production, tree farming, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products. An agricultural operation shall also include certain farm activities and uses as follows:

1. Chemical and Fertilizer spraying
2. Farm machinery noise
3. Extended hours of operation
4. Storage and spreading of manure of biosolids under state permit
5. Open storage and spreading of manure and biosolids under state permit
6. Open storage of machinery
7. Odors produced from normal farm activities
8. On farm marketing of farm products

Agricultural Building or Structure. Any building or structure, existing or erected, which is used principally for agricultural purposes.

Alteration. Any manmade change, addition or modification of existing land use.

Animal Unit. A unit of measure to compare differences in the production of animal wastes which has as a standard the amount of waste produced on regular basis by a slaughter steer or heifer. (See MPCA Guidelines)

Aquifer. A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water.

Bed and Breakfast. A single-family dwelling used in part as rental units for lodging and providing one or more meals as part of the rental fee.

Best Management Practices or BMPs. A practice or combination of practices for preventing or reducing diffuse or non-point source pollution to a level compatible with water quality

goals. BMPs are dependent on the best available technology or information for resource management.

Bioengineering/ biotechniques. The scientific and technological design methods by which natural vegetation is used in landscaping shorelands for the purposes of shoreline stabilization, erosion prevention, wildlife and fisheries habitat and diversity, run-off buffer, aesthetics, privacy and cost effective maintenance. This may be done in conjunction with ecological restoration, supplemental planting to enhance an existing buffer or filter strip or combined with riprap.

Bluff. A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

The slope rises at least 25 feet above the ordinary high water level of the water body for riparian lots or 25 feet above the toe of the bluff for non-riparian lots.

The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level for riparian lots or 25 feet above the toe of the bluff for non-riparian lots averages 30 percent or greater;

The slope must drain toward the waterbody.

Part or all of the feature is located in a shoreland area.

Bluff Impact Zone. A bluff (as described above) and land located within twenty (20) feet inland of the top of a bluff.

Board of Adjustment. The MHB Member County's Board of Adjustment as described in Minnesota Statutes, Section 394.27.

Boat Access. A ramp, road, or other conveyance, which allows the launching and removal of a boat with a vehicle and trailer.

Boat House. A structure designed and used solely for the storage of boats or boating equipment. (See water-oriented structure.)

Buffer Strip. Land area used to visibly separate one use from another or to shield or block structures, noise, lights, or other nuisances.

Building. Any structure used or intended for storage, shelter or occupancy.

Building Height. The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hip roof, not to exceed 30 feet.

Building Line. A line parallel to the lot line or street right-of-way at any story level of a building and representing the minimum distance which all or any part of the building is set back from said lot line or right-of-way line.

Cabin. See Dwelling.

Campground. Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational vehicles free of charge or for compensation.

Cemetery. Public and private cemeteries as defined in Minnesota Statutes, Chapter 306.

Clean Fill. Uncontaminated soil, sand, gravel, rock or concrete. Clean fill does not consist of metal, drywall, asphalt, or any substance containing petroleum, heavy metals, chemicals or any substance with potential to be soluble in water, migrate in water, or contaminate water.

Clearcut. A harvesting technique that removes all the trees (regardless of size) on an area in one operation.

Cluster Housing Units (CHUs). The development pattern and technique whereby structures are arranged in closely related groups to make the most efficient use of the infrastructure and natural amenities of the land. (See also Planned Unit Development).

Commissioner. The Commissioner of the Minnesota Department of Natural Resources.

Common Interest Communities (CICs). The contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate subject to a master association, regardless of when the master association was formed, shall not collectively constitute a separate common interest community unless so stated in the master declaration recorded against the real estate pursuant to section 515B.2-121, subsection (f)(1). (Minnesota Common Interest Ownership Act Section 515.1-103D(10))

Communication Tower. Structures erected and intended to support antennas for the transmission of wireless communications.

Conditional Use. A land use or development as defined by MN Statutes that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning permit exist, (2) the use or development conforms to the comprehensive plan of the county, and (3) the use is compatible with the existing neighborhood.

Condominium. A form of individual ownership with a multi-family building or development with joint responsibility for maintenance and repairs. In a condominium, each apartment or townhouse is owned outright by its occupant, and each occupant owns a share of the land and other common property of the building.

Conservation Connection. The voluntary and permanent transfer of specified development and land use rights from a landowner to a qualifying organization, as per Chapter 84C of Minnesota Statutes. (See Easement.)

Controlled Access Lot. Any lot which is designated for the exclusive use by non-riparian landowners within a subdivision as a means to gain access to a lake, river, or stream.

County. Means one of the eight member counties of the MHB or the county's Board of Commissioners.

County Board of Commissioners or County Board. The governing body of a County.

Deck. A horizontal, unenclosed platform which may or may not be permitted having attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than one foot above ground level.

Density. The number of dwelling units residing upon, or to be developed upon, an acre of land.

Designee. A person or agency that has been designated by the Zoning Authority.

Development, New. A new use of land, or a change in the existing use of land, that requires the issuance of a permit or approval of a local zoning authority.

Dock - Permanent. A fixed structure, attached to the shoreline with footings, providing access to waterbodies and watercraft for water-oriented recreational activities. Permanent docks remain in the water year-around.

Dock - Temporary. A structure providing access to waterbodies and watercraft for water-oriented recreational activities on a seasonal basis. Temporary docks are easily removed from the water for part of the year.

Duplex, Triplex and Quad. A dwelling structure on a single lot, having two, three and four units, respectively being attached by common walls and having each unit equipped with separate sleeping, cooking, eating, living and bathroom facilities.

Dwelling. Means any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel and resort rooms and cabins. A dwelling unit may be a manufactured or mobile home.

Easement. 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. An easement may also be granted for such uses as recreational trails, vehicular access, natural resource protection or management, limiting development, and similar uses.

Essential Services. Means the provision of services to individual parcels by public utilities or

municipal department or commissions, of underground or overhead gas, electrical, communication, steam or water transmissions or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith (but not including buildings or transmission services) reasonably necessary for the furnishing of adequate service by such public utilities or entities for the public health, safety or general welfare. This does not include wireless communication.

Excavate. To make a hole, cavity, or tunnel. The disturbance of soil that alters the natural hydrology, stratigraphy, or drainage patterns of a lot.

Extraction. The removal of aggregate, soil, minerals or similar materials.

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

Family. One (1) or more persons, each related to the other by blood, marriage, adoption or foster care, or a group of no more than three (3) persons not so related by maintaining a common household and using common cooking and kitchen facilities.

Feedlot, Livestock. 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. (See MPCA Guidelines.)

Fence. For the purpose of this ordinance a fence is any addition, structure, wall or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.

Filling. The act of depositing any fill material.

Filter strip. The use of land topography and native vegetation to provide runoff, erosion, and sedimentation control.

Final plat. Official plat to be filed in the office of the County Recorder according to Minnesota Statutes and the subdivision regulations of County.

Flood Plain. The areas adjoining a watercourse which have been or hereafter may be covered by a regional flood.

Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge

Forest Land Conversion. The cutting of forested lands to prepare for a new land use other than re-establishment for a subsequent forest stand.

Forestry. The management of land for forest, woodland, or plantation uses for one or more of the following purposes: 1) to establish and maintain timber resources; 2) to harvest timber, including the selling of firewood; 3) to establish and maintain healthy and well-balanced forest; 4) to establish and maintain wildlife diversity and habitat for game and non-game species; 5) to provide outdoor recreation activities; and 6) to protect soil and water resources.

Gazebo. A freestanding accessory structure with no kitchen, sleeping, sanitary facilities, or pressurized water intended as weather and insect protection for such activities as picnicking and lake viewing. (See also Water-oriented accessory structure.)

Generally Accepted Silvicultural Techniques (or Forest Management Practices). Those activities recommended for forest management by “Sustaining Minnesota Forest Resources”, MN Forest Resources Council, 1999.

Geographic Information System (GIS). A computerized mapping system for integrating different technologies used in gathering, analyzing, and assessing spatial data.

Grading. Changing the natural or existing topography of land.

Hardship. The same as that defined in Minnesota Statutes, Chapter 394. Hardship as used in connection with a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance.

Hazardous Substance. Any material solid, semisolid, liquid or gaseous which because of its quantity, concentration or chemical, physical or infectious characteristic may (a) cause or contribute to an increase in mortality or illness, (b) pose a hazard to human health or the environment when improperly treated, stored, treated, used or managed. Categories include explosive, flammable or combustibles liquids or solids infectious, compressed gas radioactive, oxidizers, poison or toxic liquid or solids, irritants, corrosives and miscellaneous. Or, the same as that defined in CFR (Codified Federal Register 49 (PCA 2000).

Hazardous Waste. Any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in

serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to, explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Headwaters Lakes. These are the nine lakes within the Corridor -- Carr, Cass, Irving, Bemidji, Stump (impoundment), Winnibigoshish, Little Winnibigoshish, Wolf, and Andrusia.

Headwaters Lakes, General Development. Means generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore.

Headwaters Lakes, Natural Environment. Means generally small, and often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables and unsuitable soils. These lakes, particularly in rural areas, may be unsuitable for further development.

Headwaters Lakes, Recreational Development. Means generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. Development mainly consists of seasonal and year-around residences and recreationally-oriented commercial uses.

Hydric Soils. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Hydrophytic Vegetation. Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Impervious surface. Any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surface shall include graveled driveways and parking areas.

Individual Sewage Treatment System. (ISTS) A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. Individual sewage treatment system includes holding tanks and privies.

Infrastructure. See Related Essential Services. Other services which may be included are Fire, sheriff, school bus, water, fiber optics, and communications.

Intensive Vegetation Clearing. Means the substantial removal of more than 25 percent of trees or shrubs in a contiguous patch, strip, row or block within 150 feet of the ordinary high water mark of the Mississippi River or the defined setback distance for the

Headwaters Lakes.

Landfill. A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste.

Light Pollution. The upward and outward distribution of light either directly from fixtures or from reflection off the ground or other surfaces.

Local Government Unit or LGU. Any government unit subordinate to state government units.

Lot. A parcel of land designated by plat, registered land survey, auditors plot, or other accepted means, and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Lot Line. The property line bounding a lot except that where any portion of a lot extends into the public right-of-way shall be the lot line for applying this ordinance.

Lot of Record. A lot that has been recorded in the office of the County Recorder prior to the date of adoption of this Plan.

Lot, Substandard. A lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the effective date of this ordinance which does not meet the minimum lot area, structure setbacks or other dimensional standards of this ordinance.

Lot Width. The shortest distance between lot lines measured at the midpoint of the building line.

Manufactured Home. (See Dwelling.)

Material Adverse Effect. The real or potential, acute or chronic negative impact of a use which in the opinion of the jurisdictional government unit may result in a negative effect on the environment. The Applicant may be required to demonstrate the nature and extent of an adverse effect.

Mining Operation. The removal from the land of coal, salt, iron, copper, nickel, granite, petroleum products or other minerals or materials for commercial, industrial, or governmental purposes.

Mississippi Headwaters Board or MHB. The Board composed of one county commissioner from Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison

counties, formed as a joint powers board pursuant to Minnesota Statutes, Section 471.59 and Section 103F.367, subd.1.

Mississippi Headwaters Corridor or Corridor. The lands and waters contained within the Mississippi River and Headwaters Lakes zoning districts and identified in the Mississippi Headwaters Board Comprehensive Plan maps.

Mississippi Headwaters Comprehensive Plan or Plan. The comprehensive land use plan adopted pursuant to Minnesota Statutes, Section 103F.369.

Mississippi River Resources Inventory or River Resources Inventory. The list of recreational sites, endangered species, and important archeological sites in the Corridor and made available at the Mississippi Headwaters Board. (See Part I.)

Mobile Home. See Dwelling.

Mobile Home or Trailer Coach Park. This term applies to any lot or tract of land upon which two (2) or more occupied trailer coaches or mobile homes are harbored either with or without charge and including any building or enclosure intended for use as a part of the equipment of such park.

Modular Home. See Dwelling.

Natural Drainageway. All land surface areas which by nature of their contour or configuration, collect, store and channel surface or runoff water.

Nonconforming Use (nonconformity). Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

Official Map. The MHB Corridor map established in the Appendices of this Plan.

Open Space. Land used for recreation, resource protection, amenities, and/or buffers. In no event shall any area of a lot constituting the minimum lot area nor any part of an existing or future road or right-of-way be counted as constituting open space.

Open Space Recreational Uses. Any recreation use particularly oriented to and utilizing the outdoor character of an area including hiking and riding trails, primitive campsites, campgrounds, waysides, parks and recreation areas.

Ordinary High Water Mark. The boundary of public waters and wetlands, which shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water mark is the elevation of the top of the bank of the channel.

Outstanding Violation. Any on-going or completed activity which is not permitted by the MHB Standards for the Management of Shoreland Areas or pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F.201 - 103F.221, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

Parcel. (See Lot)

Pasture. Areas where grass or other growing plants are used for grazing of domestic livestock 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, temporary holding facilities, or watering devices.

Patio. An impervious surface adjoining to a structure located at ground level.

Permanent Foundation. The structural supports of a building that allow the building to be physically attached to the ground.

Permitted Use. A use which may be lawfully established in a particular district or districts, without a conditional use permit, provided it conforms to all requirements, regulations, and performance standards of that district.

Planned Unit Development. A type of development 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 such areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time share condominiums, cooperatives, full fee ownership, or any combination of these, or cluster subdivisions of dwelling units, CICs, CHUs, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, and conversions of structures and land uses to these uses.

Planned Unit Development Subdivision (PUD/Subdivision). A subdivision that is designed using Planned Unit Development standards in accordance with the pertinent requirements of the Plan.

Planning Advisory Commission or Planning Commission or PAC. The MHB Member County's Planning Advisory Commission as described in Minnesota Statutes, Section 394.30.

Plat. The diagram, map, drawing, or chart drawn to scale and showing all the essential data pertaining to the boundaries and subdivisions of a tract of land, as determined by survey, that is required for a complete and accurate description of the land which it delineates.

Principal Use. The main use of land or buildings as distinguished from subordinate or accessory use. A "principal use" may be either permitted or conditional.

Private Road. A roadway or strip of land reserved for the use of a limited number of persons or purposes as distinguished from a publicly dedicated road.

Public Service District. A designated area which is served by a municipality with both water and sewer services.

Property Line. The legal boundaries of a parcel of property.

Protected Waters of the State or Public Waters. Lakes, rivers, streams, and wetlands designated under Minnesota Statutes, section 103G.005, subd. 15.

Public Land. Land owned or managed by a municipal, school district, county, state, federal, or other unit of government.

Public Nuisance. A condition that unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of the neighborhood or any considerable number of members of the public.

Public Road. Any vehicular way which is an existing federal, state, county, or township roadway; is shown upon a plat approved pursuant to law as dedicated to public use; or is dedicated to public use.

Public Uses. Uses owned or operated by any governmental unit.

Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational Trail (Non-motorized). A minimum impact path designed specifically for hiking, biking, horseback riding or skiing for the purpose of enjoying the values of the Corridor.

Recreational Trail (Motorized). A trail designed specifically for the purpose of All Terrain Vehicles (ATV).

Recreational Use. Use that is primarily for the enjoyment of individuals and families, and is not party to commercial enterprise other than resorts, campgrounds, and bed and breakfasts.

Recreational Vehicle (RV). Any unit incorporated in, attached to or intended to be attached to a motorized vehicle that provides living or sleeping facilities. This includes, but is not limited to, travel trailers, campers, fifth wheel campers, over the pickup cab campers, pop up campers, fold out campers, pickup topper campers, camper cars, bus campers,

mini-homes, motor homes and other similar units.

Recreational Camping Vehicle Park Campground. An area accessible by vehicle, containing sites for travel trailers or recreational camping vehicles, and with central

water supply and central on-site sewage treatment facilities connected to each site.

Registered Land Survey. A survey meeting the requirements of a County Subdivision Ordinance prepared by a licensed professional surveyor.

Related Essential Services. (See Essential Services).

Resort. Any buildings, structures, or enclosures kept, used, maintained or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public and primarily to those seeking recreation, for periods of one day, one week or longer, and having for rent three or more cottages, rooms, or enclosures.

Restoration. The process of returning a site to its normal, original, or previous state.

Riparian Lot. A lot that abuts public waters.

River Corridor or River. See MHB Corridor.

River Classification, Wild. River segments that are located in forested, sparsely populated areas. Predominant land uses include multiple use forestry, some recreation facilities, seasonal residential, and, within commuting distance of major towns, some year-around residential. Low intensity recreational uses of these rivers and adjacent lands are common. (See Part III, Section E.)

River Classification, Scenic. River segments that are generally located in the middle reaches of river systems. Common land uses include forests with riparian development strips and mixtures of cultivated, pasture, and forested beyond. Some seasonal and year-around residential development exists, particularly within commuting distances of major towns. The types and intensities of recreational uses within this class vary widely. (See Part III, Section E.)

Road. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated. Ingress and egress easements shall not be considered roads.

Sand and Gravel Borrow Pits. Means the removal of topsoil, sand, gravel, clay, rock, and surficial geologic deposits of unconsolidated material using shovels, loaders, trucks and other similar equipment.

Sanitary Facilities. Accommodations such as toilet, bathroom, shower, and floor drains. (See Individual Sewage Treatment System.)

Screening. Fencing, an earthen berm, or vegetative growth that visually separates one object from another.

Selective Cutting. The removal of single scattered trees.

Setback. The minimum horizontal distance between a structure, individual sewage treatment system, or other facility and the ordinary high water mark, road, top of a bluff, highway, property line, or other facility.

Setback Area. Means the area between the minimum building line and the ordinary high water mark of the River or the Headwaters Lakes.

Sewage Treatment System. See Individual Sewage Treatment System.

Sewered Area. A lake or river area whose shoreland area residents are served by a municipal wastewater treatment system or subordinate service district established by the Zoning Authority and the local government unit for the purpose of sanitation.

Shore Impact Zone. Land located between the ordinary high water level of a public water and a line parallel to it, at a setback of 50 percent of the structure setback.

Shrub. A woody plant up to 4 inches in diameter or 1 foot to 8 feet in height.

Sign. Any letter, work, symbol, model, printed, projected, or affixed device, poster, picture, reading matter, or other representation in the nature of advertisement, announcement, direction or informative device including structural and component parts, that is located outdoors.

Significant Cultural or Historic Site. Any archaeological or historic site, standing structure or any other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets this criterion if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist, or the Director of the Minnesota Historical Society, the Leech Lake Tribe, or the MHB. All unplatted cemeteries are automatically considered to be significant historic sites.

Single Family Residence. A dwelling occupied by only one (1) family, and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for one (1) family only, together with such domestic help as may be necessary to service and maintain the premises and their occupants.

Site Plan. See Unified Site Plan.

Slope. The degree of deviation of a surface from the horizontal, usually expressed in percent.

Solid Waste. Garbage, refuse, and other discarded solid materials, including solid waste materials, resulting from industrial, commercial, agricultural operations, residential uses, and community activities, but does not include earthen fill, boulders, rock and other materials normally handled in construction operations, animal waste used as fertilizer,

any permitted material disposed of as soil amendment, solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, wastewater effluent, dissolved materials, suspended solids in irrigation return flows, or other water pollutants.

Stairways, Lifts and Landings. Any structure providing access up and down a slope. Lift means a mechanical conveyance for access up and down a slope.

Standards. Refers to the minimum standards under MN Stat. 103F.369 Subd. 3.

Steep Slope. Land where agricultural activity or development is not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Plan. 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.

Storage Building. See Structure.

Structure. Any building, sign, or appurtenances to the building or sign, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, or gas lines, including towers, poles and other supporting appurtenances.

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

Structure Setback. The line measured across the width of the lot at the point where a structure or campsite is placed in accordance with setback provisions.

Subdivision. Land that is divided for the purpose of sale, rent or lease, including planned unit developments, regulated by Subdivision Ordinances.

Sub-standard Use. See nonconforming use.

Suitability Analysis. Consideration by the responsible unit of government of the susceptibility to flooding, existence of wetlands, inadequate drainage, soil and rock formation with severe limitations for development, severe erosion potential, topography, inadequate water supply, sewage treatment capabilities, nearshore aquatic conditions unsuitable or water-based recreation, fish or wildlife habitat, significant cultural site, any other feature of the natural land likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the community. (MHB 1992 Section 20.1)

Toe of the Bluff. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope from gentler to steeper slope above. If no break is apparent, the toe of bluff shall be determined to be the lower end of a ten (10) foot segment, measured on the ground, with an average slope exceeding 18 percent.

Top of the Bluff. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope from steeper to gentler slope above. If no break is apparent, the top of bluff shall be determined to be the upper end of a ten (10) foot segment, measured on the ground, with an average slope exceeding 18 percent.

Top of Bank. For the purposes of determining setbacks, the point at the edge of a river where hydric (wetland) soils end and non-hydric (upland) soils begin.

Travel Trailer or Camper. A unit no more than eight (8) feet wide and less than forty (40) feet in length, but not limited to, designed for short-term occupancy and designed to be pulled behind a vehicle, upon the frame of a truck, or self-propelled units.

Tree. A woody plant 4 inches or more in diameter or 8 feet or more in height.

Unified Site Plan. As described in this Plan, a written and graphic depiction of existing and proposed improvements for and/or development of land within the Corridor.

Use. The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

Utility Transmission Lines. Main lines and connections of utility lines providing essential services.

Variance. A modification or variation of the provisions of this Plan where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the Plan would cause an undue or unnecessary hardship, or that strict conformity with the provisions of this ordinance would be unreasonable, impractical or unfeasible under the circumstances.

Vegetation. The sum total of trees and shrubs in an area.

Vegetative Buffer. A strip of well-rooted, natural vegetation at least ten (10) feet wide, consisting of a mixture of grasses, shrubs and trees. See also Filter Strip.

Water-Oriented Accessory Structure or Facility. An above ground building, structure or other improvement, not including boathouses.

Wetlands. Land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- (1) have a predominance of hydric soils;

- (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) under normal circumstances support a prevalence of such hydrophytic vegetation.

Wetlands Conservation Act (WCA). An act of the Minnesota Legislature to provide comprehensive wetland protection.

Zoning Authority. The entity designated by the county, local government unit, or LLBO to administer zoning matters.

Abbreviations and Acronyms

ACOE or ACE	(U.S.) Army Corps of Engineers
AHRI	American Heritage Rivers Initiative
BMPs	Best Management Practices
BWSR	(Minnesota) Board of Water and Soil Resources
CHU and CIC	Cluster Housing Units and Common Interest Community
CWP	Clean Water Partnership
DNR or MnDNR	(Minnesota) Department of Natural Resources
DOT	(Minnesota) Department of Transportation
EPA	(U.S.) Environmental Protection Agency
EQB	(MN) Environmental Quality Board
FRC	Forest Resources Council
GD	General Development – a DNR lake classification
GIS	Geographic Information System
ISTS	Individual Sewage Treatment System
LCMR	Legislative Commission on Minnesota Resources
LGU	Local Governmental Unit
LLBO	Leech Lake Band of Ojibwe
MDH	Minnesota Department of Health
MHAC	Mississippi Headwaters Advisory Committee
MHB	Mississippi Headwaters Board
MHS	Minnesota Historical Society
MPCA or PCA	Minnesota Pollution Control Agency
NE	Natural Environment – a DNR lake classification
NRCS	(U.S.) Natural Resources Conservation Service
OEA	Office of Environmental Assistance
OHWM	Ordinary High Water Mark
PUD	Planned Unit Development
RD	Recreational Development – a DNR lake classification
RM	River Mile
SSD	Subordinate Service District
SWCD	Soil and Water Conservation District
USFS	United States Forest Service
USP	Unified Site Plan
WCA	Wetlands Conservation Act

Appendix 1.

Joint Powers Agreement

APPENDIX # 1

AGREEMENT BETWEEN THE COUNTIES OF CLEARWATER, HUBBARD, BELTRAMI, CASS, ITASCA, AITKIN, CROW WING, AND MORRISON TO ESTABLISH A JOINT POWERS BOARD.

SECTION I – ESTABLISHMENT

Pursuant to the authority contained in M.S.A. 471.59 it is hereby resolved that Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison County Boards do thereby establish a joint powers board hereinafter referred to as the Mississippi Headwaters Board.

SECTION II – PURPOSE

The purpose of the Mississippi Headwaters Board shall be to formulate plans for the area under its jurisdiction; to protect the Upper Mississippi River from uncontrolled and unplanned development through the preparation and adoption of a comprehensive management plan for the river and adjacent lands. This management plan will provide for: the adoption of strong local zoning ordinances, recreational use of the river and adjacent public lands, donation or purchase of critical lands in the public interest, and sound management of existing public lands along the River.

SECTION III – ORGANIZATION

- A. MEMBERSHIPS – The membership of the Mississippi Headwaters Board shall be composed of one county commissioner, designated by the county board, from each member county.
- B. TERM OF OFFICE – The term of office will run concurrently with each member’s term on their respective county boards. The chairman shall serve a term of office of one (1) year.
- C. OFFICERS – The officers of the board shall consist of a chairman, vice chairman, and a secretary. The chairman, vice chairman, and secretary shall be selected by a majority vote of the board members.
 - 1. Chairman: It shall be the duty of the chairman to preside over all meetings of the Mississippi Headwaters Board. He shall have the power to call special meetings at reasonable times with reasonable notice when it is deemed such a meeting is necessary to the conduct of the business of the Mississippi Headwaters Board.

2. Vice Chairman: It shall be the duty of the vice chairman to preside over the meetings of the Mississippi Headwaters Board in the absence of the chairman. The term of office of the vice chairman shall run concurrently with the chairman.
3. Secretary/Treasurer: It shall be the duty of the secretary/treasurer to keep, or designate a person to assist in keeping a record of all proceedings of the Mississippi Headwaters Board, to provide for the proper receipt and disbursement of funds, and to perform all other duties normally assigned to the secretary/treasurer of a deliberative body. The term of office of the secretary shall run concurrently with the chairman.

- D. VOTING – Each member of the Mississippi Headwaters Board shall have one (1) vote.

SECTION IV – MEETINGS

- A. The Mississippi Headwaters Board shall meet in regular session on the 3rd Friday of each month at Walker in the county courthouse.
- B. The meetings will be alternately held in each county courthouse of member counties. The rotation of county meetings are to be set by the chairman.
- C. Special meetings may be held under the circumstances outlined in Section III-C-1.
- D. A quorum shall consist of a majority attendance of board members.

SECTION V – DUTIES AND RESPONSIBILITIES

- A. The Mississippi Headwaters Board shall have the power to contract for services, in the manner prescribed by law, that are required and necessary to prepare a comprehensive plan for protection of the Upper Mississippi River within the boundaries of the member counties.
- B. The Mississippi Headwaters Board shall have the power to accept and disburse funds; and to apply for state and federal funds necessary to prepare and implement its plan.
- C. The Mississippi Headwaters Board will have the power to develop and recommend a schedule for plan implementation by member counties and to provide for common administration of essential parts thereof.
- D. The Mississippi Headwaters Board will have the responsibility to initiate and maintain a liaison with governmental agencies necessary to complete

a
comprehensive plan for the Mississippi River within the member counties jurisdiction.

- E. The Mississippi Headwaters Board will have the authority to appoint advisory committees and conduct such public meetings and hearings as are necessary to provide full public review and participation of the management plan for the Mississippi River.
- F. The Mississippi Headwaters Board will also have the responsibility to arrange for the independent audit of its expenditures and disbursements, consistent with state law.
- G. Exercise of these powers and duties will require a majority of the Mississippi Headwaters Board voting members.

SECTION VI – AMENDMENTS

Amendments to this agreement will require a consensus of all voting members.

SECTION VII – EFFECTIVE DATE

This resolution shall take effect and be in force from and after the date of it’s signing.

SECTION VIII – AUTHORIZATION

IN WITNESS THEREOF, the respective counties by resolution duly adopted by its county board(s), causes this agreement to be signed by its designee and attested to all on the day and year signed.

Clearwater County Commissioner Donald McCollum
 Hubbard County Commissioner Ervin Kahlstorf
 Beltrami County Commissioner R.E. Boyer, Sr.
 Cass County Commissioner Virgil F. Foster
 Itasca County Commissioner Alf Madsen
 Aitkin County Commissioner L.H. Schroeder
 Crow Wing County Commissioner B. Murphy
 Morrison County Commissioner Michael B. Amo

Signed February 22, 1980

Appendix 2.

Minnesota Statutes 103F.361-377

APPENDIX #2

Minnesota Statutes 103F.361 through 103F.377

Mississippi Headwaters Planning and Management

103F.361 FINDINGS AND INTENT.

Subdivision 1. **Findings.** The legislature finds that:

(1) the Mississippi River from its outlet at Lake Itasca, Clearwater County, to the southerly boundary of Morrison county, Minnesota, possesses outstanding and unique natural, scientific, historical, recreational and cultural values deserving of protection and enhancement;

(2) the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison have entered into a joint powers agreement pursuant to law to develop a plan for the protection and enhancement of the foregoing values; and

(3) the plan adopted by the counties pursuant to the joint powers agreement establishes guidelines and minimum standards for cooperative local management of this segment of the Mississippi River.

Subd. 2. **Legislative Intent.** It is the intent of Sections 103F.361 to 103F.377 to authorize and direct the board and the counties to implement the plan for the Mississippi headwaters area.

History: 1990 c 391 art 6 s 41; 1992 c 476 s 1

103F.363 APPLICABILITY.

Subdivision 1. **Generally.** Sections 103F.361 to 103F.377 apply to the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison.

Subd. 2. **Leech Lake Indian Reservation.** Sections 103F.361 to 103F.377 do not alter or expand the zoning jurisdiction of the counties within the exterior boundaries of the Leech Lake Indian Reservation. The plan and the county ordinances adopted pursuant to section 103F.369, subd. 4, apply only to areas within the zoning jurisdiction of the counties as provided by law in effect prior to May 20, 1981.

History: 1990 c 391 art 6 s 42; 1992 c 476 s 2

103F.365 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.361 to 103F.377.

Subd. 2. **Board.** “Board” means the Mississippi headwaters board established under 103F.367.

Subd. 3. **Counties.** “Counties” means the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison.

Subd. 4. **Plan.** “Plan” means the comprehensive land use plan approved by the board and dated July 1, 1992.

History: 1990 c 391 art 6 s 43; 1992 c 476 s 3

103F.367 MISSISSIPPI HEADWATERS BOARD.

Subdivision. 1. **Establishment.** The Mississippi headwaters board established by the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison by agreement entered into on February 22, 1980, pursuant to section 471.59 is established as a permanent board with authority to prepare, adopt and implement a comprehensive land use plan designed to protect and enhance the Mississippi River and related shoreland areas situated within the counties.

Subd. 2. **Membership.** (a) The board shall consist of eight members. The governing body of each county shall appoint one of its members to serve on the board.

(b) The terms of board members are two years commencing on the first Monday in January of odd-numbered years.

(c) Vacancies on the board shall be filled for the remainder of the term by the governing body that made the original appointment.

(d) The governing body of a county may designate another member of the governing body or a county officer to act as an alternate for the member appointed by the county.

Subd. 3. **Officers.** (a) The board shall annually appoint from among its members a chair, vice-chair, and secretary-treasurer who shall serve for concurrent one-year terms.

(b) The chair shall preside over all meetings of the board and may call special meetings at reasonable times and upon adequate notice when necessary.

(c) The vice-chair shall preside over the meetings of the board in the absence of the chair.

(d) The secretary-treasurer or the designee of the secretary-treasurer shall keep a record of all proceedings of the board. The secretary-treasurer shall provide for the property receipt and disbursement of funds.

Subd. 4. **Meetings.** (a) The regular meetings of the board shall be held at times and places prescribed by it.

(b) A majority of all members of the board shall constitute a quorum and a majority vote of all members shall be required for actions taken by the board.

Subd. 5. **Staff and contracts.** The board may employ staff and contract for goods and services as necessary to implement sections 103F.361 to 103F.377. Contracts are subject to the statutory procedures and restrictions applicable to county contracts.

Subd. 6. **Funding.** The board shall annually submit to each county for its approval an estimate of the funds it will need from that county in the next fiscal year to prepare and implement the plan and otherwise carry out the duties imposed upon it by sections 103F.361 to 103F.377. Each county shall, upon approval of the estimate by its governing body, furnish the necessary funds to the board. The board may apply for, receive, and disburse federal, state and other grants and donations.

Subd. 7. **Advisory committees.** The board shall appoint advisory committees representing a broad geographical area and diverse public interests, and conduct public meetings and hearings necessary to afford the public an opportunity to become fully informed of all deliberations in the preparation and implementation of the plan.

Subd. 8. **Contact with government agencies.** The board shall initiate and maintain contacts with governmental agencies as necessary to properly prepare the plan and shall negotiate

cooperative management agreements with the United States Forest Service and Bureau of Land Management and the state department of natural resources. The board, Beltrami, Cass, Hubbard and Itasca counties shall initiate and maintain contacts with the governing body of the Leech Lake Indian Reservation and shall negotiate a cooperative management and jurisdiction agreement with the reservation governing body.

History: 1990 c 391 art 6 s 44; 1992 c 476 s 4

103F.369 PLAN IMPLEMENTATION.

Subdivision 1. **Implementation required.** The plan shall be implemented by the board as provided in this section and section 103F.373.

Subd. 2. **Plan provides minimum standards.** The standards set forth in the plan are the minimum standards, which may be adopted by the board and by the counties for the protection and enhancement of the natural, scientific, historical, recreational and cultural values of the Mississippi River and related shoreland areas subject to the plan. Except for forest management, fish and wildlife habitat improvement, a veterans cemetery that complies with subdivision 5, and open space recreational uses as defined in the plan, state or county lands within the boundaries established by the plan may not be offered for public sale or lease. The board with the agreement, expressed by resolution adopted after public hearing, of the county boards of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison counties may amend the plan in any way that does not reduce the minimum standards set forth in the plan.

Subd. 3. **Implementation.** The board shall develop and establish a schedule for implementation and common administration of the plan by the counties. The schedule shall be binding upon the counties subject to approval by the governing bodies of the respective counties.

Subd. 4. **County land use ordinance must be consistent with plan.** The counties shall adopt land use ordinances consistent with the plan.

Subd. 5. **Veterans cemetery.** A veteran's cemetery may be located within the boundaries established by the plan if a site plan approved by the county zoning authority addresses each of the following items:

- (1) the name of the cemetery;
- (2) a legal description of the property affected;
- (3) names and addresses of applicant, owner, surveyor, and designer of the plan;
- (4) graphic scale;
- (5) an arrow depicting north on the plan
- (6) date of preparation of the plan;
- (7) total acreage of property;
- (8) square footage for each proposed site;
- (9) existing soil conditions, depth of water table, and topographic contours;
- (10) roads and proposed roads showing right of way widths;
- (11) proposed location and type of on-site sanitary treatment facilities and domestic

water

- supply;
- (12) accessory facilities, existing or to be constructed, by type and location;
- (13) all streams, creeks, ponds, wetlands, and swamps;
- (14) burial only on site with no embalming or other related activities on site;
- (15) no placement of graves or accessory facilities within the designated flood plain; and
- (16) each burial must be in a vault or an appropriate liner as determined by the board.

History: 1990 c 391 art 6 s 45; 1991 c 158 s 1, 2; 1992 c 476 s 5-7

103F.371 RESPONSIBILITIES OF OTHER GOVERNMENTAL UNITS.

All local and special governmental units, councils, commissions, boards and districts and all state agencies and departments must exercise their powers so as to further the purposes of sections 103F.361 to 103F.377 and the plan. Land owned by the state, its agencies, and political subdivisions shall be administered in accordance with the plan.

Actions that comply with the land use ordinance are consistent with the plan. Actions that do not comply with the ordinance may not be started until the board has been notified and given an opportunity to review and comment on the consistency of the action with this section.

History: 1990 c 391 art 6 s 46; 1992 c 476 s 8

103F.373 REVIEW AND CERTIFICATION OF LAND USE ACTIONS.

Subdivision 1. **Purpose.** To assure that the plan is not nullified by unjustified exceptions in particular cases and to promote uniformity in the treatment of applications for exceptions, a review and certification procedure is established for the following categories of land use actions taken by the counties and directly or indirectly affecting land use within the area covered by the plan:

- (1) the adoption or amendment of an ordinance regulating the use of land, including rezoning of particular tracts of land;
- (2) the granting of a variance from provisions of the land use ordinance; and
- (3) the approval of a plat, which is inconsistent with the land use ordinance.

Subd. 2. **Certification.** Notwithstanding any provision of Chapter 394 to the contrary, an action of a type specified in subdivision 1, clauses (1) to (3), is not effective until the board has reviewed the action and certified that it is consistent with the plan. In determining consistency of ordinances and ordinance amendments, the provisions of the plan shall be considered minimum standards. An aggrieved person may appeal a decision of the type specified in subdivision 1, clauses (1) to (3), that is reviewed by the board under this section in the same manner as provided for review of a decision of a board of adjustment in section 394.27, subdivision 9, but only after the procedures prescribed under this section have been completed.

Subd. 3. **Procedure for certification.** A copy of the notices of public hearings or, when a hearing is not required, a copy of the application to consider an action of a type specified in subdivision 1, clauses (1) to (3), must be forwarded to the board by the county at least 15 days before the hearing or meetings to consider the actions. The county shall notify the board of its final decision on the proposed action within ten days of the decision. By 30 days after the board receives the notice, the board shall notify the county and the applicant of its approval or disapproval of the proposed action.

Subd. 4. **Disapproval of actions.** (a) If a notice of disapproval is issued by the board, the county or the applicant may, within 30 days of the notice, file with the board a demand for a hearing. If a demand is not filed within the 30-day period, the disapproval becomes final.

(b) If a demand is filed within the 30-day period, a hearing must be held within 60 days of demand. The hearing must be preceded by two weeks' published notice. Within 30 days after the hearing, the board must:

- (1) affirm its disapproval of the proposed action; or
- (2) certify approval of the proposed action.

History: 1990 c 391 art 6 s 47; 1992 c 476 s 9, 10

103F.375 INCORPORATION AND ANNEXATION.

Subdivision 1. **Moratorium on certain activities.** If land subject to the plan is annexed, incorporated, or otherwise subjected to the land use planning authority of a home rule charter or statutory city, a moratorium shall exist on:

(1) all subdivision platting and building permits on the land until zoning regulations are adopted for the land that comply with the provisions of the plan; and

(2) construction, grading and filling, and vegetative cutting as those activities are defined in the plan.

Subd. 2. **Exception for work under prior permits.** This section does not apply to work done pursuant to lawful permits issued before the land became subject to the land use planning authority of the city.

History: 1990 c 391 art 6 s 48; 1992 c 476 s 11

103F.377 BIENNIAL REPORT.

During the first year of each biennial legislative session, the board shall prepare and present to the appropriate policy committees of the legislature a report concerning the actions of the board in exercising the authority granted by the legislature under sections 103F361 to 103F.377. The report must include an assessment of the effectiveness of the plan and its implementation in protecting and enhancing the natural, scientific, historical, recreational, and cultural values of the Mississippi River and related shorelands situated within the member counties.

History: 1990 c 391 art 6 s 49; 1992 c 476 s 12

Appendix 3.

Official Zoning Maps of the MHB Corridor

APPENDIX #3

Mississippi Headwaters Corridor Official Zoning Maps

Mississippi Headwaters Corridor

Maps defining the corridor under the jurisdiction of the Mississippi Headwaters Board on the Mississippi River and on the Headwaters Lakes of Carr, Irving, Bemidji, Stump, Wolf, Andrusia, Cass, Winnibigoshish and Little Winnie follow. Maps are provided for the length of the river for the unincorporated areas of the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison. The corridor is indicated by a diagonal line across the river. Maps of the Mississippi River and the Headwaters Lakes are provided for the incorporated areas, but there is no corridor in areas incorporated as municipalities.

Map Delineation

These MHB maps are only representations of the Headwaters Corridor and are not meant as delineations or specifications for the purposes of Public Land Survey systems or methods. The MHB will continue to rely upon the County Surveyors or the county designees for that Public Land Survey information.

Map Information

Maps indicate the river itself, physical characteristics of the river, such as rapids, the river corridor, roads, railroads, pipelines, and powerlines.

Additional Maps

Each member county of the Mississippi Headwaters Board is provided a set of maps of the river corridor for that county.

Map Interpretation

Maps are presented according to the flow of the river, and should be read from the upstream point to the downstream point on each map. Maps of the Headwaters Lakes follow the southern boundary, from the inlet of the river to the outlet, and then return to the inlet of the river and follow the north shore. The north shore of Lake Winnibigoshish is not represented on these maps.

MISSISSIPPI HEADWATERS BOARD

COMPREHENSIVE PLAN

July 1, 2002
(FINAL DRAFT 12-21-01)

Mississippi Headwaters Board
PO Box 3000
Walker, MN 56484
218-547-7263
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Executive Summary

The upper Mississippi Headwaters River corridor is located in the first 400 miles of the Mississippi River in North Central Minnesota. It is characterized by the presence of surface water, associated drainage basins and groundwater aquifers, a complex vegetative system and freshwater, wetland and terrestrial wildlife habitat. These abundant resources are strongly influenced by human culture.

In 1980, the eight counties signed a joint-powers agreement to uphold the MHB Management Plan. In 1981 the legislature enabled the Plan with zoning authority through MN Stat. 103F. 361-103.F. 377.

The Plan has been updated in order to comply with the provisions of the Plan as referenced by statute and to address the annexation by municipalities, new technologies, and the increased needs of the region.

The 2002 Plan essentially maintains the same restrictions as the previous plans. Revisions have been subject to meetings of the Citizens Taskforce, Advisory Committee, written comment from the public, e-mail, phone calls, technical advisors, and at least two public hearings in each of the eight counties throughout the years 1998 to 2002.

The MHB endorsed goals to implement the Plan. They are to complement existing water protection efforts in the Upper Mississippi River watershed; to provide a format for partnerships working together for the common good and toward common goals; to encourage stewardship in practices affecting water quality; to provide opportunities for education to diverse peoples and increased information regarding the protection and enhancement of the five MHB values.

MHB's mission is to enhance and protect outstanding and unique natural, scientific, historical, recreational, and cultural values. This applies in the first 400 miles of the Mississippi River from its source at Lake Itasca in Clearwater County to the southerly boundary of Morrison County, Minnesota.

The 2002 MHB Comprehensive Plan is divided into three parts including Administration and Authority, Management Objectives, and Standards. Maps of the MHB Corridor are included in the Appendices.

**Published by Mississippi Headwaters Board
Cass County Courthouse
PO Box 3000
Walker, MN 56484
218/547-7263**

July 2002

Hubbard County Ordinance # 34

An Ordinance of the Hubbard County Board of Commissioners to Regulate Signage in Hubbard County.

Enacted on May 7, 2003.
Amended May 27, 2010.
Amended July 27, 2011.
Amended August 9, 2017.
Amended June 5, 2018.
Amended May 4, 2021.

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10.0 General

This Ordinance shall be known as the Sign Ordinance for Hubbard County, Minnesota and herein referred to as the Ordinance.

11.0 Purpose and Intent

The purpose of this Ordinance shall be to promote the health, safety, and general welfare of the public; to regulate the type, placement, and scale of signs within the different management districts; to recognize the communication needs of all sectors of the community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through accurate record keeping and consistent enforcement. These shall be accomplished by regulation of the display, erection, use, and maintenance of signs, but not the content or messages of signs. No sign shall be permitted as a main or accessory use except in accordance with the provisions of this Ordinance.

Because of Hubbard County's unique environmental settings and awareness, and its reliance on tourism, it is further the intent of this Ordinance to encourage quality and aesthetics in the size, design, and the materials used for construction; to enhance the overall appearance and image of the area; and to assure that the public is not endangered by the unsafe, disorderly or unnecessary use of signage.

This Ordinance shall not regulate official traffic or government signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government or noncommercial organization; gravestones; barber poles; religious symbols; commemorative plaques; the display of street numbers; or any display or construction not defined herein as a sign.

The primary intent of this Ordinance shall be to regulate signs containing commercial speech intended to be viewed from any vehicular or pedestrian right-of-way. This Ordinance is not intended to and does not restrict, limit, or control the content or message of signs.

12.0 Authority

Hubbard County enacts this ordinance establishing sign regulations pursuant to the authority granted by Chapter 394, Minnesota Statutes.

13.0 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the

governing body and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

13.1 Conflicting Regulations

Whenever any provision of this Ordinance is found to be in conflict with the provisions of any other ordinance, the ordinance containing the more restrictive requirements shall govern.

It is not intended by this Ordinance to repeal, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

13.2 Severability

General application. If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgments shall not affect any other provision of this Ordinance not specifically in said judgment.

Specific application. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, use, building or other structure, such judgment shall not affect the application of said provision to any other property, use, building or other structure not specifically included in said judgment.

14.0 Definitions

Abandoned Sign – A sign which no longer identifies or advertises a bona fide business, lessor, service, product, or activity, and/or for which no legal owner can be found.

Banner - A sign made of fabric or any nonrigid material with no enclosing.

Commercial Speech – Speech advertising a business, profession, commodity, service, or entertainment.

Copy – The graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic, or alphabetic form.

Director – The Environmental Services Director or designated representative.

Face– The area of a sign on which the copy is placed.

Flashing Sign – A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. This does not include changeable copy

signs, or signs which, through reflection or other means, creates an illusion of flashing or intermittent light.

Freestanding Sign – A single-pole sign supported permanently upon the ground by a pole or brace and not attached to any building; or a double-pole sign with multiple signs between the two supports.

Frontage – The length of the property line of any one premise along a public right-of-way on which it borders.

Government Sign – A sign that is erected or maintained by a governmental unit.

Height – The vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the grade of the average adjacent natural terrain or the surface grade beneath the sign, whichever is less in height.

Illegal Sign – A sign which does not meet the requirements of this Ordinance and is not a legal nonconforming sign.

Intermittent Lighting – see “Flashing Sign”.

Maintenance – For the purposes of this Ordinance, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

Non-Commercial Speech – Dissemination of messages not classified as commercial speech, which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

Nonconforming Sign – A sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.

Off-Premise Sign – A sign structure which pertains to an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, e.g., “billboards” or “outdoor advertising.”

On-premise Sign – A sign which pertains to the use of the premises and/or property on which it is located.

Owner – A person recorded as such on official records. For the purposes of this Ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Director, e.g., a sign leased from a sign company.

Person – Any individual, corporation, association, firm partnership, or similarly identified interest.

Portable Sign – Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building. Included are signs affixed to vehicles that are parked or placed in such a way as to display the sign face toward the roadway.

Projecting Sign – A sign other than a flat wall sign, which is attached to or projects from a building wall or other structure not specially designed to support the sign.

Sign – Any device, structure, fixture, or placard using graphic symbols, and/or written copy displayed for communicative or informational purposes and visible to members of the public who are not on the premises on which the device is located, including any structure erected primarily for use in connection with the display on such device and all lighting or other attachments used in connection.

Sign Area – Includes the space inside a continuous line drawn around and enclosing all letters, designs, and background materials exclusive of border, trim and structural supports. For the purpose of calculating the sign area of multiple-faced or back-to-back signs, the stipulated maximum sign area shall refer to a single face.

Temporary Sign – A sign that is not permanently installed and is displayed concurrent with a specific event or occurrence for a limited duration, after which the sign must be removed.

Wall Sign – A sign attached essentially parallel to and extending not more than twenty-four (24) inches from the wall of a building with no copy on the sides or edges. This definition includes painted, individual letter, and cabinet signs, and signs on a mansard.

Window Sign – Lettering placed directly on a window surface.

20.0 Jurisdiction

The jurisdiction of this Ordinance shall apply to all the area of Hubbard County outside the incorporated limits of municipalities.

21.0 Functional Classification

Functional Classification is a system by which highways and streets are grouped in classes according to the character of service they are intended to provide. This system is the basis for establishing sign regulations through the county. All signs are regulated on the basis of the initial functional class of the roadway the sign faces or is visible from.

21.1 Classification Map

Hubbard County hereby adopts the existing state functional classification map for the county as the Official Map for the administration of this Ordinance. The Official Map for Hubbard County is retained and can be accessed at the Hubbard County Environmental Services Department. This Official Map shall be the final authority as to the current functional classification status for regulations under this Ordinance.

21.2 Functional Classifications

Principal Arterials. Serve corridor movements having trip lengths and travel density characteristics indicative of statewide or interstate travel. Also serve all urbanized areas and a large majority of the small-urban areas with over 25,000 population.

Minor Arterials. Link cities, larger towns, and other traffic generators, such as major resort areas. Consistent with population density, minor arterials are spaced so that all developed areas of the state are within reasonable distance of an arterial highway.

Major Collectors. These routes: (1) provide service to the larger towns not served by higher systems and other traffic generation of equivalent intra-county importance such as consolidated schools and county parks; (2) link these places with nearby large towns or cities or with arterials; and (3) serve important intra county travel corridors.

Minor Collectors. At intervals consistent with population density these routes collect traffic from local roads and bring all developed areas within a reasonable distance to a collector road and provide service to the remaining small communities.

Local. Comprised of all facilities not on one of the higher systems. It serves to provide direct access to abutting land and access to the higher order systems.

30.0 Performance Standards

30.1 General Regulations

The following signs or characteristics of signs shall not be permitted or erected in Hubbard County:

- A. Any sign which resembles, imitates or approximates the shape, size, form or color of railroad or traffic signs, signals, or devices.

- B. Any sign which is located so as to interfere with the visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection.
- C. Any sign which is erected, relocated or maintained so as to prevent free ingress or egress from any door, window, or fire escape, and no sign shall be attached to a standpipe or fire escape.
- D. Any sign which emits sounds.
- E. Any sign or structure which is unsafe or constitutes a hazard.
- F. Abandoned signs.
- G. Any sign displaying obscene, indecent, immoral or offensive matter.
- H. Any sign erected and/or maintained so as to direct constant or flashing beams or rays of light at any portion of the traveled way of any highway or street of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle, or which directs constant or flashing beams or rays of light at any portion of a building or residence. If a sign is illuminated, the source of light shall be directed so as not to shine upon any part of a residence or into any residential area or any roadway.
- I. Any signs within public rights-of-way or public easements unless posted by government agencies or public utilities.
- J. Any sign not abiding by all standards set forth in other federal, state, county or local ordinances, including but not limited to the Hubbard County Shoreland Management Ordinance.

30.2 Design, Construction and Maintenance

- A. All signs shall be properly maintained. Exposed surfaces shall be clean and painted as required. Defective parts shall be replaced. The Director shall have the right under Section 50.0 to order the repair or removal of any sign which is defective, damaged, or substantially deteriorated.
- B. In districts where allowed, signs may be illuminated by the following methods: internally or externally lighted and shielded to prevent glare to adjoining roadway and residences.
- C. Projecting signs, awnings and canopies that overhang a sidewalk or other pedestrian way shall provide a minimum clearance above the said pedestrian way of eight (8) feet, which shall be measured from the

smallest vertical distance between the pedestrian way and the lowest point of the sign, including framework and embellishments.

- D. Except for banners, flags, temporary and portable signs, and window signs conforming in all respects with the requirements of these regulations, all signs shall be permanently attached to the ground, a building, or other structure by direct attachment to a rigid wall, frame or structure.

31.0 Sign Classifications and Performance Standards

The following performance standards based on sign classification apply in all zoning districts, except as otherwise specified in this ordinance.

31.1 Class A – On-Premises Signs

Class A signs are on-premises signs, which shall conform to the requirements of this Ordinance, including the following:

- A. All Class A signs shall abide by all standards set forth in other federal, state, county or local ordinances.

B. Physical Requirements

The maximum size, height and quantity of Class A signs per lot shall not exceed the limitations listed in the chart below. These limitations are based on the lineal dimensions of the lot along the frontage with the roadway. Such size limitations shall apply to each face of a sign structure; for the purposes of calculating the area of a back-to-back or “V” type construction sign; however, only one face of such sign shall be considered.

Total Linear Frontage of Lot	Maximum Number per Lot	Maximum Area per Lot	Maximum Height per Sign
≤ 200 feet	1	100 sq. ft.	15 feet
>200 feet, but ≤ 500 feet	2	200 sq. ft.	20 feet
> 500 feet	3	200 sq. ft. max for any one sign, 300 sq. ft. total	25 feet

31.2 Class B – Off-Premises Signs

Class B signs are off-premises signs, which shall conform to the requirements of this Ordinance, including the following:

A. Location

Class B signs will be allowed as a permitted use subject to MN/DOT approval. All Class B signs shall abide by all standards set forth in other federal, state, county, or local laws, including more restrictive provisions of this Ordinance.

B. Size

The maximum sign area for any one face of a Class B sign shall not exceed the size allowed in section 31.2.F. Such maximum size limitation shall apply to each face of a sign structure. Class B signs may be placed back-to-back or in a “V” type construction, which is not to exceed forty-five (45) degrees, but not more than one (1) display is allowed on each face of a sign structure. For purposes of calculating the area of a back-to-back or “V” type construction sign; however, only one face of such sign shall be considered.

C. Height

The maximum height of any Class B freestanding sign shall not exceed the maximum height listed in section 31.2.F.

D. Spacing

No Class B free standing sign shall be closer than the distance allowed in section 31.2.F. to any other Class B sign. This provision does not prohibit back-to-back or “V” type construction of Class B signs. This distance between Class B signs shall be measured along the center line of the pavement between points directly opposite the center of the signs and along the same street or highway.

E. Wherever possible, the use of non-commercial off-premise signs of a standard design purchased and placed through the appropriate road authority within the roadway right of way will be encouraged as an alternate to private Class-B signs.

F. Size and Spacing Requirements

The following requirements apply to the appropriate roadway functional classification listed. Other portions of this or other ordinances may have more restrictive standards.

Functional Class	Maximum Size	Minimum Spacing	Maximum Height
Principle Arterial	400 sq. feet	1,000 feet	35 ft
Minor Arterial	400 sq. feet	1,000 feet	35 ft

Functional Class	Maximum Size	Minimum Spacing	Maximum Height
Major Collector	150 sq. feet	400 feet	25 ft
Minor Collector	65 sq. feet	400 feet	15 ft
Local	65 sq. feet	400 feet	15 ft

31.3 Class C – Temporary On-Premises Signs

Class C signs are temporary on-premises signs, meaning they are not permanently affixed to the premises, which shall conform to the requirements of this Ordinance, including the following:

A. Type

Class C signs shall be limited to banners, pennants and portable signs.

B. Size

The maximum square footage for the total of all Class C signs on a single lot of record shall be thirty-five (35) square feet.

C. Height

The maximum height for all Class C signs not attached to buildings shall not exceed ten (10) feet.

D. Time

The maximum time that a temporary sign may be displayed is ninety (90) days or less each calendar year, unless otherwise specified in this Ordinance.

E. Lighting

Temporary signs are not permitted to be a flashing sign or have an intermittent lighting source.

F. All Class C signs shall abide by all standards set forth in other federal, state, county or local ordinances.

31.4 Class D – Other Permitted Signs

Class D signs are those signs set forth in this section, which shall conform to the requirements of all federal, state, and county laws, and this Ordinance, including the specific performance standards set forth in this section:

- A. *Government signs.* Government signs shall be allowed in any district as required by the governing body having jurisdiction including, but not limited to, school districts, Hubbard County Highway Department, and State of Minnesota Department of Transportation. Size, height, spacing, and other requirements shall conform to those set by the appropriate governing body.
- B. *Small on-premises signs.* On-premises signs containing only non-commercial speech shall be allowed in all districts provided that the total area of such signs shall not exceed six (6) square feet in surface area.
- C. *Temporary signs.* One temporary sign may be displayed on property in any district in conjunction with a one-time or special event, including construction on and sale of property, provided that such sign does not exceed fifty (50) square feet and is removed within five (5) days of the completion of the one-time or special event.
- D. *Temporary signs during election.* Subject to Minnesota Statute Section 211.B.045, as it may be amended from time to time, signs containing non-commercial speech may be posted in all districts beginning forty six (46) days before a primary election in a general election year until ten (10) days following the general election.
- E. *Works of art.* Works of art that do not include commercial speech are allowed in all districts.
- F. *Posted land.* Signs displayed in accordance with Minnesota Statutes, section 97B.001, as the same may be amended from time to time, are allowed in all districts.

40.0 Scenic Byway Overlay District

The Scenic Byway Overlay District is intended to promote quality signage opportunities while protecting the special scenic qualities of the county's state designated scenic byway routes. There are two scenic byways located in Hubbard County that comprise the overlay district: 1. the Lake Country Scenic Byway and 2. the Great River Road.

Lake Country Scenic Byway:

1. T.H. 34 from the Becker County Line to the Cass County Line, and
2. T.H. 71 from T.H. 34 in Park Rapids to the east junction of T.H. 200 at Itasca State Park.

Great River Road Scenic Byway:

National Route:

1. C.S.A.H. 9 from the Clearwater County Line through Becida to the intersection with C.S.A.H. 10 (a.k.a. 169th Avenue), and
2. C.S.A.H. 10 (a.k.a. 169th Avenue) from the intersection with C.S.A.H. 9 to the Beltrami County Line.

State Route:

3. T.H. 71 from junction of T.H. 200 at Itasca State Park to Beltrami County Line, and
4. U.S. 2 from the Beltrami County Line to the Cass County Line.

All signs are regulated on the basis of their facing or being visible from the roadways within the Overlay District.

40.1 Class A, C, and D Signs

Class A, C, and D signs shall be allowed in the overlay district according to the provisions set forth in Section 31.

40.2 Class B – Off-Premises Signs

A. Location

Class B signs are not allowed within the overlay district.

50.0 Administration

The Hubbard County Environmental Services Department shall regulate signage in Hubbard County pursuant to this Ordinance. The Department shall have the following duties and responsibilities:

1. To review all applications for signage permits;
2. To issue all permits required by this Ordinance;
3. To inspect work in progress and to perform the necessary tests to determine its conformance with this Ordinance;
4. To investigate complaints regarding signs;
5. To perform compliance inspections;

6. To issue certificates of compliance or notices of noncompliance where appropriate;
7. To issue Stop Work Orders and Notices of Violation, pursuant to this Ordinance;
8. To take complaints to the County Attorney for violations of this Ordinance; and
9. To maintain proper records for permitted signage including applications, inspections, and all other correspondence.

51.0 General Provisions

It shall hereafter be unlawful for any person to erect, place, or maintain a sign in Hubbard County except in accordance with the provisions of this Ordinance.

51.1 Permit Required

No Class B sign shall be located, erected, moved or reconstructed, extended, enlarged or structurally altered within the County until a sign permit has been issued by the Environmental Services Department.

Application for a Class B sign permit shall be made to the Environmental Services Department. The application shall contain the following information: exact location of the proposed sign; the dimensions of the proposed sign; a listing of the materials with which the proposed sign will be constructed; whether the sign will be illuminated or use any type of artificial light source; name and address of the owner of the property on which the sign is to be constructed; name and address of the person that is to construct the proposed sign. The Department may require additional information consistent with the provisions of this Ordinance. All Class B signs shall be constructed and placed in substantial compliance with the permit and data submitted by the applicant.

An application for a sign permit shall be accompanied by the fee specified in the Hubbard County fee schedule. No application will be considered unless and until the required fee has been paid by the applicant. Any fee paid shall be refunded if the applicant withdraws the application prior to its consideration by the Environmental Services Department.

If the work authorized by the sign permit is not completed within 6 months from date of issuance, the permit shall be considered null and void and the site for which the permit was sought shall be returned to its condition prior to the issuance of said sign permit. Failure to obtain a sign permit prior to erection of a sign will result in a quadruple permit fee and removal of sign, if non-conforming, at owner's expense.

51.2 No Permit Required

No permit or permit fee shall be required for Class A, C, or D signs or for copy changes on permitted signs.

51.3 Certification of Sign Structure

The structural design of the following signs shall be certified by an engineer or architect registered in the State of Minnesota:

1. Any freestanding sign which has a sign area in excess of one hundred (100) square feet or a height greater than fifteen (15) feet;
2. Any projecting sign which has a sign area in excess of fifty (50) square feet;
3. Permitted signs supported by the roof of a building.

In lieu of the above, if a structural design book showing standard sign designs is filed with the Environmental Services Department and the designs therein are certified by an engineer licensed in the State of Minnesota, and the proposed sign is shown in the standard design book, no individual certification shall be required.

51.4 Sign Maintenance

All signs shall be maintained so as not to constitute a potential danger to persons or property. Abandoned signs and signs that have become damaged, dangerous, or dilapidated shall be repaired or removed immediately. The County shall have the rights and shall follow the procedures set forth in Minnesota Statutes with respect to any abandoned, dangerous or dilapidated sign.

51.5 Inspections

All signs regulated by this Ordinance shall be subject to inspection by the Environmental Services Director. The Director or his/her duly authorized representative may enter upon any property or premises to ascertain whether the provisions of this Ordinance 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 this Ordinance.

51.6 Violations

A violation of this ordinance is a misdemeanor. Signs that are in violation of this ordinance may be removed by the county at the sign owner's expense.

52.0 Non-Conforming Signs

52.1 Non-conforming signs are signs which were legally erected and displayed at the time of the enactment of this Ordinance but fail to conform with the Ordinance in one or more respects. Non-conforming signs shall be allowed to continue, subject to this section 52 and Minnesota Statutes Section 394.36, as it may be amended from time to time, and reasonable maintenance of said signs shall be allowed. The changes in sign copy and/or maintenance and repair upon an existing sign shall not be considered a relocation, replacement, or structural alteration.

52.2 A sign which is non-conforming may be structurally altered or modified in its existing location, provided that the sign is not made less conforming. For the purpose of administering this section, the following test will be used:

1. The modified sign may not be larger in area than the existing sign;
2. The modified sign may not encroach into a required setback any farther than the existing sign;
3. The modified sign must meet all other applicable codes and requirements.

52.3 Non-conforming signs shall not be relocated or replaced without being brought into compliance with all requirements of this Ordinance. If the use of a non-conforming sign is discontinued for a period of more than one year, or if a non-conforming sign is destroyed to the extent of 50 percent of its estimated market value, as determined by independent, professionally prepared estimates submitted to the Director before any construction takes place, any subsequent sign use must conform to this Ordinance.

52.4 Non-conforming temporary signs shall either be removed according to the time periods set in this Ordinance or within twelve (12) months of the adoption of this Ordinance, whichever is sooner, and all subsequent temporary signs displayed must be in compliance with this Ordinance.

53.0 Amendments

The procedure for amendments to this Ordinance shall be as follows:

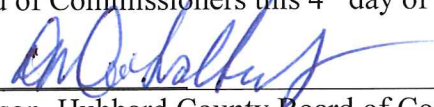
1. An amendment may be initiated by a property owner, the Planning Commission or the County Board of Commissioners. Property owners wishing to initiate an amendment shall fill out an Application for Amendment form, available from the Director. Such application shall be filled out and submitted to the Director together with the appropriate fee;
2. The applicant shall appear before the Planning Commission to answer any questions that Commission members may have concerning the amendment request;
3. A public hearing on the amendment request shall be conducted by the Planning Commission following such initial meeting. The Public hearing shall be conducted in accordance with M.S. 394.26;
4. The Planning Commission shall make a recommendation to the County Board of Commissioners after the proceedings of this public hearing. The applicant shall be notified in writing of the recommendation that shall be forwarded to the County Board of Commissioners;
5. The County Board shall consider the Planning Commission recommendation after the public hearing is conducted.

54.0 Variances and Appeals

An affected property owner may request a variance from standards as specified in this Ordinance and may be requested pursuant to this Ordinance.

Variances from the provisions of this ordinance and appeals of Environmental Services Department staff administrative decisions made regarding this ordinance will be processed according to the provisions in Section 1103, Variances and Appeals, in the Hubbard County Shoreland Management Ordinance – except Item 4 of said section does not apply.

Adopted by the Hubbard County Board of Commissioners this 4th day of May, 2021.



Chairperson, Hubbard County Board of Commissioners

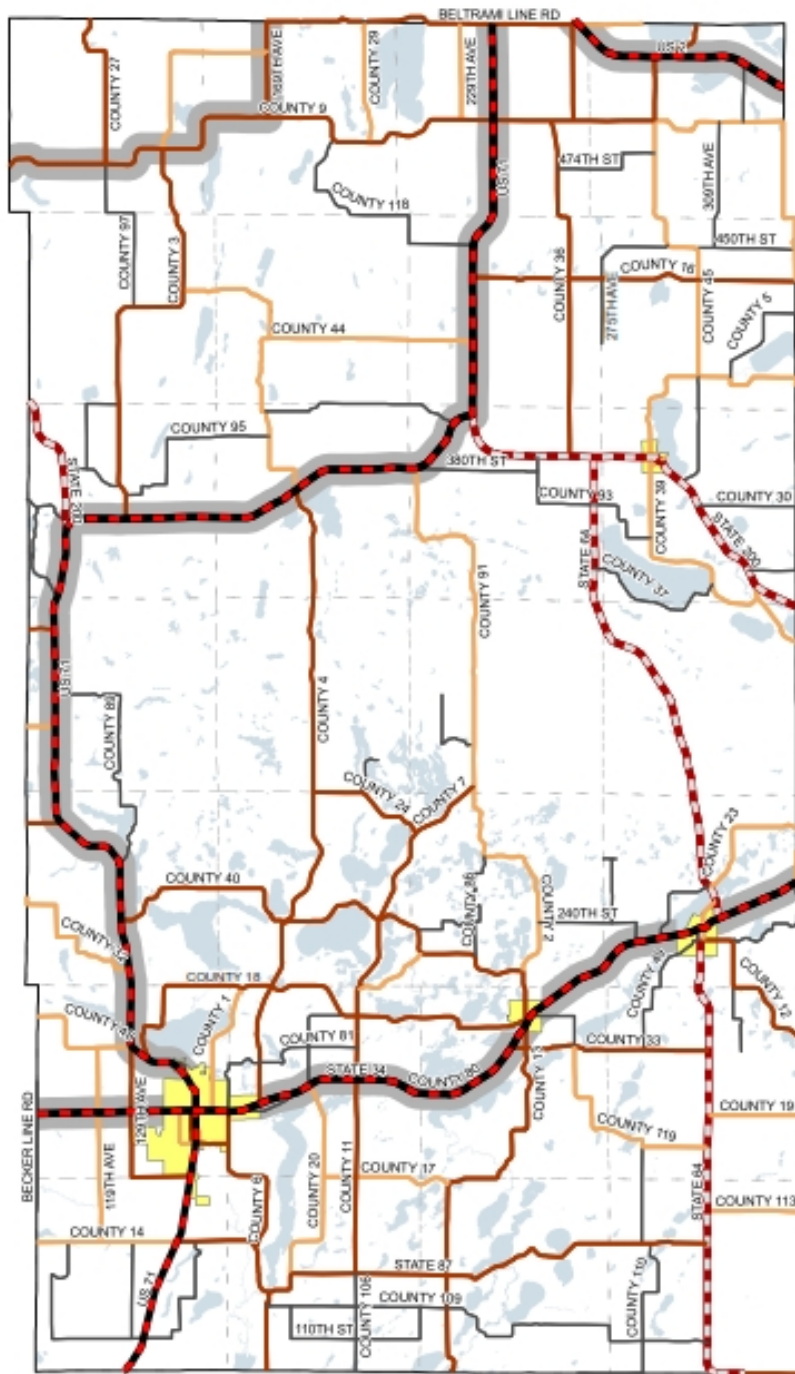
Attest:



Jeff Cadwell, County Administrator

Published in the Park Rapids Enterprise the 22nd day of May, 2021.

Official Map - Hubbard County Sign Ordinance



Functional Classification

- Principal Arterial
- Minor Arterial
- Major Collector
- Minor Collector
- Local*

- Scenic Byway Overlay District
- Municipal Boundaries

This map is for reference purposes only. Please refer to the Hubbard County Sign Ordinance for specific details.

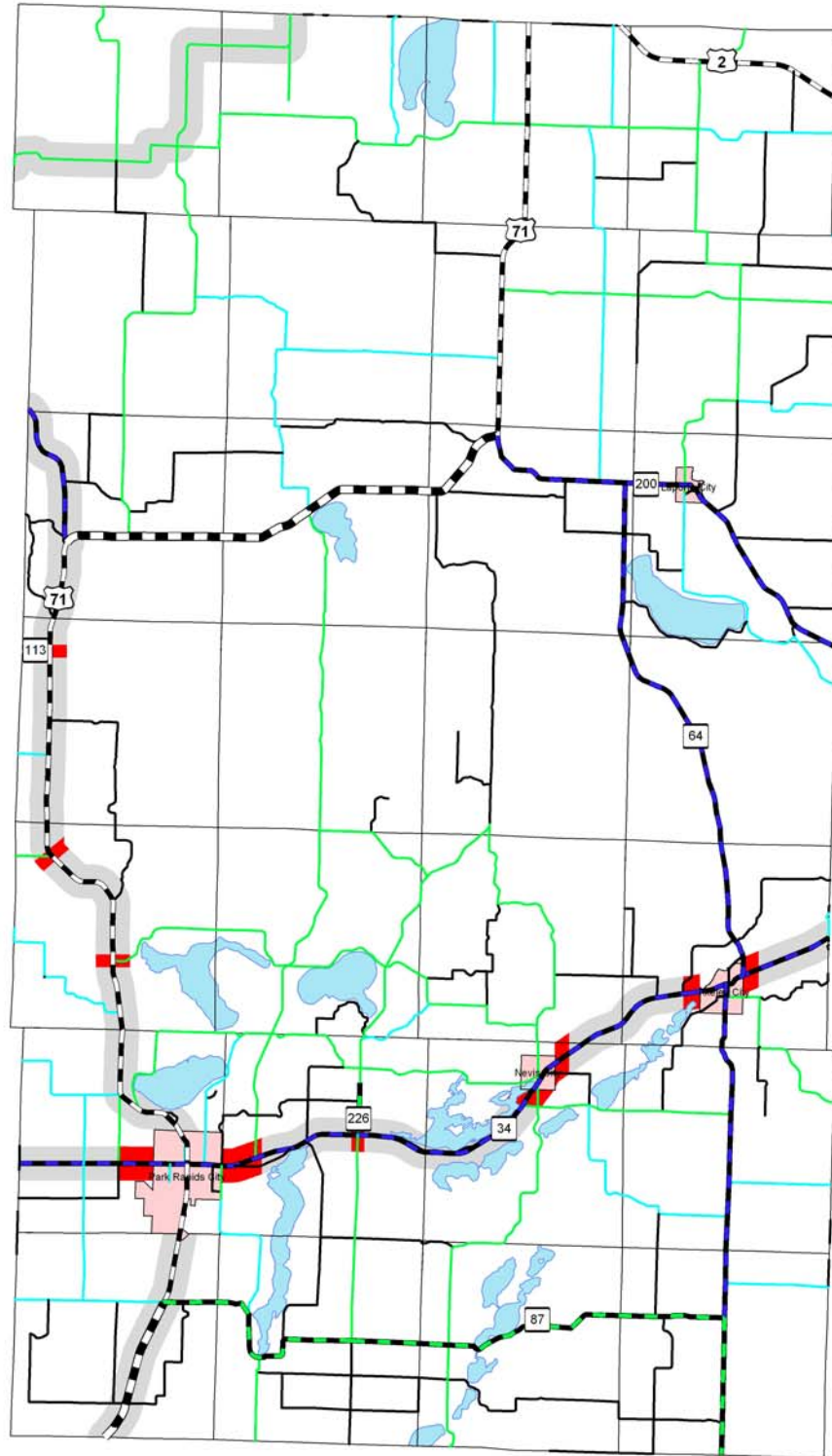
*Some local roads do not appear on the map. All roads not displayed on the map are considered local.



Hubbard County GIS

Date: 4/10/2016

Official Map - Hubbard County Sign Ordinance



Functional Classification

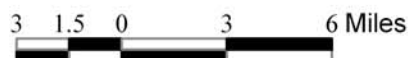
- | Trunk Highway | | *Other Roads | |
|---------------|--------------------|--------------|-----------------|
| | Principal Arterial | | Major Collector |
| | Minor Arterial | | Minor Collector |
| | Major Collector | | Local |

Overlay Districts

- | | |
|--|-------------------------|
| | Scenic Byway |
| | Scenic Byway Exemptions |

This map is for reference purposes only. Please refer to the Hubbard County Sign Ordinance for specific details.

*Some local roads do not appear on the map. All roads not displayed on the map are considered local



Prepared by the HRDC
January 2003

Hubbard County Subdivision Ordinance

July 13, 2006

**Revised: March 26, 2009
July 27, 2011
June 24, 2015
December 28, 2016
April 3, 2018
May 18, 2021**

Ordinance No. 35
Subdivision Ordinance of Hubbard County
July 13, 2006

Revised: March 26, 2009; July 27, 2011; June 24, 2015; December 28, 2016; April 3, 2018; May 18, 2021

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Subdivision Ordinance of Hubbard County, Minnesota

An Ordinance establishing regulations for the subdivision and platting of land within Hubbard County and without boundaries of municipalities, defining certain terms used herein, providing for the preparation of administrative subdivisions, minor subdivisions, plats, and registered land surveys, providing for the installation of streets and roads, establishing procedures for the approval and the recording of administrative subdivisions, minor subdivisions, plats and registered land surveys, setting fees, and providing penalties for violation of this ordinance.

Section 1 General Provisions.

Subdivision A. Short Title.

This Ordinance shall be known as the “Subdivision Ordinance of Hubbard County, Ordinance No. 35,” and will be referred to hereafter as “this Ordinance”.

Subdivision B. Purposes and Intent.

This Ordinance is enacted for the following purposes to:

1. Protect and provide for the public health, safety, and general welfare of the County;
2. Safeguard the best interests of the public, the homeowner, the subdivider, and the investor;
3. Encourage well planned subdivisions by the establishment of uniform procedures and adequate standards for design and construction in order that new subdivisions will be integrated with the *Hubbard County Land Use Plan* and general plans of the community, thereby contributing toward an attractive, orderly, stable and wholesome community environment.
4. Establish reasonable standards of design and procedures for subdivisions and resubdivisions, in order to further the orderly layout and use of land and to ensure proper legal descriptions and monumenting of subdivided land;
5. Implement land subdivisions in accordance with the *Hubbard County Land Use Plan*; and
6. Prevent the pollution of air, streams, and lakes; ensure the adequacy of drainage facilities; protect underground water resources and encourage the wise use and management of natural resources in order to preserve the integrity, stability, and beauty of the County.

Subdivision C. Authority.

The County Board shall serve as the platting authority of the unincorporated areas of the County in accordance with Minnesota Statute, Chapters 394 and 505, as may be amended. No plat or replat shall be filed or accepted for filing by the County Recorder office unless adopted by the affirmative vote of the majority of the County Board approving the plat or replat, except as provided in this Ordinance.

Subdivision D. Jurisdiction.

This Ordinance shall apply and be binding upon all plats and subdivisions of land, including registered land surveys and conveyances by metes and bounds, in the area of Hubbard County, Minnesota, located outside the incorporated limits of municipalities, and outside a two mile area adjoining any municipality that has adopted subdivision platting regulations to unincorporated territory located within two miles of its limits. The subdivider should be aware of all municipality regulations concerning this area. Any persons wishing to subdivide a single tract into two or more tracts shall do so only in accordance with the provisions of this Ordinance.

Subdivision E. Compliance.

No subdivision or plat shall be recorded in the County Recorder's office or have any validity unless the subdivision has been prepared, approved, and acknowledged in accordance with the provisions of this Ordinance. No subdivision shall be approved if a violation of any Hubbard County Ordinance exists on the parcel that is the subject of the subdivision application at the time of such application.

Subdivision F. Zoning Permits and Improvements.

No zoning permits shall be issued by the County for the construction of any SSTS, sign, or improvement to the land or to any lot in a subdivision or plat until all requirements of this Ordinance have been complied with. The County shall not allow any improvements to be installed unless the administrative subdivision, minor subdivision, or preliminary plat is approved.

Subdivision G. Conflict.

Whenever there is a difference between minimum standards or dimensions specified herein and those contained in other official regulations, resolutions, or ordinances, the highest standards shall apply. It is not the intent of this Ordinance to repeal, annul or in any way impair or interfere with existing provisions of other laws, ordinances, or resolutions except these specifically repealed by, or in conflict with, this Ordinance, or with private restrictions placed upon property by deed, covenant, or other private agreement, or with restrictive covenants running with the land. Where this Ordinance imposes a greater restriction upon the land than is imposed or required by such existing provisions of other ordinances, contract, or deed, the provisions of this Ordinance shall control.

Subdivision H. Savings Clause.

All subdivisions and plats approved under this Ordinance are approved for county purposes only and shall not release the subdivider from any liability or obligation imposed by Minnesota Statutes, federal law, or a more restrictive township ordinance relating thereto. In the event any provision of this Ordinance shall be found contrary to law by a court of competent jurisdiction from whose final judgment no appeal has been taken, such provision shall be considered void. All other provisions of this Ordinance shall continue full force and effect as though the voided provision had never existed.

Subdivision I. Minimum Requirements.

The requirements listed in this Ordinance shall be construed as minimum requirements and the

County Board shall have the authority to impose additional, reasonable standards to protect the public's health, safety and general welfare.

Subdivision J. Lot Prohibitions.

No lot or tract created under the provisions of this Ordinance shall contain both abstract and Torrens lands or extend over a political boundary.

Subdivision K. Minimum Lot Size.

When a proposed lot/tract to be created by subdivision lies partly within the Shoreland Management Ordinance jurisdictional area and partly outside said area (i.e. non-shoreland area), the lot/tract must comply with the minimum lot size standards of the shoreland or non-shoreland area in which a majority (i.e. greater than 50 percent) of the proposed lot/tract area is located.

Section 2 General Subdivision Procedures.

Subdivision A. Platting Required.

1. Except for divisions of property as provided in Sections 4 and 5, all subdivisions of land regulated by this Ordinance shall be platted in accordance with the procedures of Section 6 of this Ordinance.
2. Whenever any subdivision or plat of land is proposed and prior to when an application for a SSTS permit for a structure within a proposed subdivision is granted, the subdivider shall apply for and receive approval of a subdivision in accordance with the procedures of Sections 4, 5, and 6 of this Ordinance.

Subdivision B. Variances and Appeals.

1. A plat or subdivision shall not be approved where a variance will subsequently be required in order to use the lots for their intended use.
2. Variances from the provisions of this ordinance and appeals of Environmental Services Department staff administrative decisions made regarding this ordinance will be processed according to the provisions in Section 1103, Variances and Appeals, in the Hubbard County Shoreland Management Ordinance – except Item 4 of said section does not apply.

Section 3 Rules and Definitions.

Subdivision A. Rules.

For the purpose of this Ordinance, certain terms and words are defined, as follows.

1. The present tense includes the future tense;
2. The singular number shall include the plural and the plural the singular;

3. The word shall is mandatory, and the word may is permissive; and
4. The masculine gender includes the feminine and neuter genders.

Subdivision B. Definitions.

For the purpose of this Ordinance, certain words and terms are defined as follows:

Access – A way of approaching or entering property without trespassing upon another person’s property.

Alley – A public road and associated right of way used as a service access to the rear or side of the property that is not intended for general traffic circulation.

Attorney - A person licensed by the State of Minnesota to practice law.

Auditor - Hubbard County Auditor.

Block – An area of land within a subdivision that is entirely bounded by right of way, or by right of way and the exterior boundary or boundaries of the subdivision, a public park, or a combination of the above with a river, stream or lake.

Board of Adjustment – The Hubbard County Board of Adjustment.

Buildable Area - The area of a lot which is sufficient to accommodate the construction of water supply systems, sewage treatment systems, structures, driveways, and other customary improvements to a lot, while still providing for adequate setbacks. Buildable area shall not include land below the ordinary high water level of a waterbody, wetlands, bluffs, easements, minimum yard setbacks, buildable portions of land that are non-contiguous to each other, or when the County Board otherwise determines that an area is unsuitable for proposed or likely improvements. Buildable areas must include sufficient area for two (2) standard sewer systems. An area shall not be considered in the calculations of buildable area if it is not at least fifty (50) feet in width and length.

Build-out Plan – A subdivision or resubdivision concept plan illustrating possible future lot layout, and road networks for oversized lots, outlots, or undeveloped land within or adjoining a preliminary plat.

Certificate of Survey – A document prepared by a registered land surveyor which precisely describes area, dimensions and locations of a parcel or parcels of land.

Contiguous – Two lots that are geometrically touching by legal description with at least one foot of uninterrupted contact along at least one boundary.

County – Hubbard County, Minnesota.

County Board – The Hubbard County Board of Commissioners.

Cross Walk - A public right-of-way which cuts across a block to furnish access for pedestrians to adjacent streets or properties.

Cul-de-sac – A road with only one outlet that contains an area at the end to allow vehicles to

turn around.

Design Standards – Minimum requirements for the preparation and layout of plats and associated required improvements.

Easement – The right to use the land of another owner for a specified use, such as the construction and maintenance of utilities, roadways, parks and pedestrian trails, individual sewage treatment systems, drainage, driveway, or other uses.

Engineer – A person licensed by the State of Minnesota to practice engineering who has been engaged by the County Board.

Environmental Services Director – The Hubbard County Environmental Services Director or authorized representative.

E911 Coordinator – The Hubbard County GIS Technician or authorized representative.

Final Plat – A drawing or map of a subdivision, meeting all of the requirements of the County and Minnesota State Statutes regarding the platting of land and in a form that is recordable with the County Recorder's office.

Financial Guarantee – A financial security posted with the County with the approval of a final plat of development contract, guaranteeing compliance with the approved final plat, construction plans, and conditions of approval set forth by the County.

Government Lot – The fractional part of a section (Public Land Survey) protracted by office procedures from field notes and designated by boundary limits, area and number (not always) on the township plat. A typical U.S. patent description could be: "Government Lot 1, Section 2, Township 140N, Range 34W."

Government Subdivisions - A full government subdivision or a government lot, or a simple fractional part--increments of one half or one quarter of a full government subdivision. A simple quantity part of a full government subdivision such as twenty acres, two hundred feet, ten chains, and similar quantities.

Hubbard County Land Use Plan - The policies, statements, goals, and interrelated plans for private and public land and water use, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the county or any portion of the county.

Lot – A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means, and separated from other parcels by its description.

For purposes of determining the boundary lines and extent of a lot that is not a full (i.e. undivided) lot in a plat or tract in a registered land survey, contiguous property either: A. approved to be a single lot per a subdivision process of this Ordinance and recorded with the County Recorder or B. meeting the following criteria will be considered a "lot":

1. the property is described on a single recorded document
2. the property is not a full (i.e. undivided) lot in a plat or tract in a plat or registered land survey
3. the contiguous property described in the document is a portion of or smaller in area than

- a government lot or quarter/quarter of a section.
4. the property does not meet the criteria in Minnesota Statutes, Chapter 394.36 subd. 5 (b), (c), and (e).

Government Lots and quarter/quarters of a section or larger or multiple contiguous increments thereof are considered to be separate lots.

Lot, Butt - A lot located at the end of a block, excluding the two corner lots.

Lot, Corner - A lot located at the intersection of two (2) streets, having two (2) adjacent sides abutting streets; the interior angle of the intersection does not exceed one hundred thirty five (135) degrees. The greater frontage of a corner lot shall be the lot depth and the lesser frontage is the lot width.

Lot, Through - Any lot other than a corner lot, which abuts more than one street.

Lot Area – The total area within the lot lines of a lot, excluding any part below the ordinary high water level.

Lot Depth – The mean horizontal distance between the front lot line and rear lot line.

Lot Line – The lines bounding a lot, as defined herein.

Lot Line, Front - For a riparian lot, the front lot line is that line indicating the ordinary high water level abutting the waterbody. For a nonriparian lot, a front lot line is a line dividing a lot from any public road right-of-way or private road right-of-way or easement, except a limited or controlled access road to which the lot has no access or, if no public or private road right-of-way or easement, the boundary line from which access to the lot is gained. For lots that abut two or more rights-of-way and/or private road easements, the front lot line shall be determined by the Environmental Services Director.

Lot Line, Rear – The lot line opposite and most distant from the front lot line.

Lot Line, Side – Any lot line which is not a front lot line or a rear lot line.

Lot Remnant – An irregular parcel of land that serves no purpose and is not in conformance with County ordinances. Remnants of a lot pattern should not be called “outlots” merely because they are less than minimum lot size. Any lot remnant must be attached to the adjoining lot.

Lot Width, Non-Shoreland – The shortest horizontal distance between side property lines measured at any point between the front lot line and rear lot line of a lot located outside the Hubbard County Shoreland Management Ordinance jurisdictional area.

Lot Width, Shoreland - The shortest horizontal distance between side lot lines measured at the building line and on riparian lots, also measured between lot corners at the ordinary high water level of the adjacent lake or river on a lot located within the Hubbard County Shoreland Management Ordinance jurisdictional area.

May - Means permissive.

Metes and Bounds – A method of property description prepared by a land surveyor registered in the State of Minnesota described by the direction and distance from an identifiable point of

beginning.

Mn/DNR – Minnesota Department of Natural Resources

Mn/DOT – Minnesota Department of Transportation

Mn/PCA – Minnesota Pollution Control Agency

Non-Riparian Lot - A lot that does not abut public waters of the State.

Ordinary High Water Level - The boundary of public waters and wetlands indicated by an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water (OHW) level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool. For lakes with established ordinary high water level elevations set by the Minnesota Department of Natural Resources, the established OHW elevation shall be the legal ordinary high water level for purposes of this ordinance.

Outlot – A parcel of land shown on a subdivision plat as an outlot, and designated alphanumerically, (for example - Outlot A.) Outlots are used to designate one of the following:

- a. land that is part of the subdivision but is to be subdivided into lots and blocks at a later date;
- b. land that is to be used for a specific purpose as designated on the final plat, or
- c. other agreement between the Township or County and the subdivider; or for a public purpose.

Owner - Any individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Person – A firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planning Commission – The Hubbard County Planning Commission

Plat – The drawing or map of a subdivision prepared for filing of record in accordance with Minnesota Statutes, Chapter 505 and containing all elements and requirements in this Ordinance pursuant to Minnesota Statutes, Chapters 394 and 505.

Preliminary Plat – A drawing or map of a proposed subdivision clearly marked “preliminary plat” meeting the requirements of this Ordinance.

Private Road – A road providing access to one or more lots which is not dedicated to or maintained by the public.

Protective Covenants – A restriction of the use placed upon the property by a present or former owner and recorded with the County Recorder office. The County will not be responsible to enforce private protective covenants.

Public Improvement – Any drainage facility, road, parkway, park, lot improvement or other facility for which the County or any other local government may ultimately assume the responsibility for maintenance and operation.

Recorder – The Hubbard County Recorder.

Rectangular System – A system that divides land into square tracts and square measures in terms of acres. The location of the land is described in such terms as N ½ (North one-half), SE ¼ (Southeast one-quarter).

Registered Land Survey (RLS) – A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of Registered Land Survey Number. Registered land surveys are surveys performed for the identification of registered (Torrens) lands in accordance with the requirements of Minnesota Statutes, Chapter 508; or successor statutes. Registered land surveys are not plats, are not signed by landowners, and may not dedicate public rights.

Resubdivision - A change in an approved or recorded subdivision plat if the change affects any street layout, area reserved for public use, or any lot line on the plat; or if it affects any map, or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right of Way – A strip of land occupied or intended to be occupied by a road, street, railroad, pedestrian/bicycle trails and utilities as authorized by the County Board or State law. Right of way intended for streets, water main, sanitary sewers, storm drains, pedestrian/bicycle trails or any other use involving maintenance by a public agency shall be dedicated to public use by the recording of the plat on which the right of way is established.

Riparian Lot - Any lot which is bounded on one or more sides by public waters frontage.

Road – An improved corridor and associated drainageways affording primary access to abutting properties for vehicles and pedestrians, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, place or however otherwise designated.

Road, Local – County, township, public, and private roads that serve the shortest trips and provide access to adjacent property.

Road Right of Way Width - The horizontal distance between the outside edges of a road right of way.

Shall - Means mandatory.

Sketch Plan – A drawing that shows the conceptual subdivision of property.

SSTS – Subsurface sewage treatment system

Subdivider – An owner, agent or person, 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 Ordinance.

Subdivision – The division of land into two (2) or more lots or parcels for the purpose of transfer

of ownership or building development, or, if a new public road is involved, any division of a parcel of land. The following list of exceptions shall not be considered subdivisions:

- a. A conveyance that is described as a complete Government Lot and has not been previously restricted under provisions of this Ordinance.
- b. A conveyance that is described by the Rectangular System and is a full quarter/quarter section or larger increment thereof (e.g. N ½ of the NW ¼), and has not been previously restricted under provisions of this Ordinance.
- c. A conveyance that is, in the opinion of the Environmental Services Director, solely for the purpose of correcting a boundary line.
- d. Transfer of interest in land pursuant to a court order.
- e. Platted cemeteries done in accordance with the requirements of applicable State statutes and ordinances.
- f. Governmental or utility use. Conveyances to a governmental unit or public utility for the purpose of roads, streets residual, substations, poles, towers, etc. Lots created for the siting of electrical transmission and distribution substations and other public utility structures.
- g. Registered land surveys prepared for the purpose of clarifying existing property descriptions as determined by the County Recorder.

Surveyor - A person licensed by the State of Minnesota to practice land surveying.

Section 4 Administrative Subdivisions.

The purpose of an administrative subdivision is to allow relatively simple and timely procedures for the subdivision of property. The provisions in this Section are not intended to replace minor subdivision and platting requirements for larger properties so as to try to avoid said requirements. There shall be no subsequent subdivision of any property that has been included in an administrative subdivision within a period of five years of the date any such subdivision of land was approved as part of an earlier administrative subdivision application unless such subdivision is done by minor subdivision or platting.

Subdivision A. General Requirements.

1. The provisions of this Section shall only apply to those subdivisions classified as Administrative Subdivisions as described as follows. The following shall be considered an Administrative Subdivision:
 - a.) The exchange of abutting land between owners, the addition of land to an existing lot or the relocation of the boundary line between two abutting, existing parcels of property, provided that:
 - 1.) the exchange, addition or relocation does not create an additional lot, and
 - 2.) any conforming lot prior to the exchange, addition of land, or boundary line

relocation remains conforming after the exchange and complies with all provisions of this Ordinance or the Hubbard County Shoreland Management Ordinance, as applicable, and any nonconforming lot prior to the exchange, addition of land, or boundary line relocation becomes more conforming with one or more of the provisions of this Ordinance or the Hubbard County Shoreland Management Ordinance, as applicable, after the exchange, addition of land, or boundary line relocation.

b.) Outside the Hubbard County Shoreland Management Ordinance jurisdictional area, the following subdivisions may be allowed:

- 1.) A lot may be subdivided to create up to four lots each equal to or greater than five (5) acres in size (which may include public and private road right-of-way easements) and possessing a minimum width of 300 feet.
- 2.) A lot may be subdivided to create up to two lots each equal to or greater than 2.25 acres (98,010 square feet) in size that shall not include any public road right-of-way, but less than five acres in size. Each lot must also have a minimum contiguous buildable area of 49,000 square feet and a 150' minimum width. A certificate of survey created by a surveyor in the State of Minnesota is required for every such lot created.
- 3.) Each lot created shall either abut an existing public road right-of-way or have legal access to a public road right-of-way via a minimum 33 foot wide ingress and egress easement and at least 33 feet of frontage on said easement. No wetland(s) shall be partly or wholly located within said easement.
- 4.) A maximum of four lots shall be created per administrative subdivision application comprised of up to two lots each equal to or greater than 2.25 acres in size, but smaller than five acres in size and the balance of the lots each being five acres or greater in size.
- 5.) A maximum of four lots per quarter/quarter section of land (or Government Lot) shall front a side of an existing public road.

c.) In the Hubbard County Shoreland Management Ordinance jurisdictional area, the following subdivisions may be allowed:

- 1.) A lot may be subdivided to create up to four lots that are 2 ½ acres or less in size without platting. Subdivisions that create five or more lots that are 2 ½ acres or less in size must be platted.
- 2.) All lots created within the Shoreland Management Ordinance jurisdictional area shall comply with the Shoreland Management Ordinance minimum lot size requirements.
- 3.) Each lot shall either abut an existing public road right-of-way or have legal access to a public road right-of-way via a minimum 33 foot wide ingress and egress easement and at least 33 feet of frontage on said easement. No wetland(s) shall be partly or wholly located within said easement.
- 4.) A maximum of four lots shall be created per administrative subdivision

application.

- 5.) A maximum of four lots per quarter/quarter section of land (or Government Lot) shall front a side of an existing public road.
2. Any subdivision regulated by this Ordinance that is not an Administrative Subdivision as specifically described in subpart 1 above shall comply with either the minor subdivision provisions in Section 5 or the platting provisions in Section 6 of this Ordinance.
3. Lots within an Administrative Subdivision shall be described by Government Subdivision, recorded plat, registered land survey, or metes and bounds. Except for common boundary line adjustments, all new subdivisions in an existing plat of record shall be done by subdivision plat. No metes and bounds conveyances or metes and bounds access easements, or lots created per Section 4. Subdivision A.1.b.2 of this Ordinance shall be allowed without an accompanying certificate of survey from a surveyor that shall include the following information:
 - a. Legal description of each lot (including the remainder)
 - b. Lot area (and residential lot suitable area in Shoreland Management Ordinance jurisdictional area)
 - c. Site improvements – including structures and wells (for lots within the Shoreland Management Ordinance jurisdictional area), and septic system components
 - d. Lot ingress and egress easement locations
 - e. All mathematical closures shall be shown on the certificate of survey
 - f. All overlaps or gaps shall be shown on the certificate of survey
 - g. All encroachments shall be shown on the certificate of survey
 - h. All bearing references shall be shown on the certificate of survey
 - i. All certificates of survey shall be tied to a minimum of two government corners, either section or quarter section corners.
 - j. All certificates of survey shall be tied to the Hubbard County Coordinates System.
4. **Reduced Lot Widths.** Lots in the Shoreland Management Ordinance (SMO) jurisdictional area are allowed certain reduced front or rear lot line widths per Section 501.7 of the SMO. To allow reasonable flexibility in the design of lots allowed per Section 4, Subdivision A.1.b.2 of this Ordinance, lot widths may be reduced at either a front or rear lot line (but not both) to no less than one-half the required minimum lot width provided the following conditions are met:
 - a. The total number of lots in a subdivision does not exceed the total linear road feet serving the subdivision divided by the required minimum lot width. Lots designed and approved to be served by existing roads shall be calculated separately from lots to be served by newly constructed roads;

- b. The minimum required lot width is met at: 1. either the front or rear lot line and at the midpoint of the lot depth or 300 feet from the front lot line, whichever is closer to the front lot line;
- c. Each lot contains the applicable required minimum buildable area exclusive of any portion of the lot not meeting minimum width requirements.

Subdivision B. Administrative Subdivision Procedure

1. The applicant shall submit an application for approval of an Administrative Subdivision to the Environmental Services Director that includes the following:
 - a. A completed application on a form provided by the Environmental Services Office, and documents demonstrating the subdivider has sufficient interest in the property to apply for an Administrative Subdivision.
 - b. Two (2) copies of a map or sketch, prepared by a surveyor when describing a metes and bounds description by certificate of survey (for either a proposed property description or an easement intended to satisfy the requirements of Section 4, Subdivision A.1.b.3 and Section 4, Subdivision A.1.c.3 of this Ordinance), containing the following information:
 - 1.) The original property description and the proposed legal descriptions of the proposed lots.
 - 2.) Proposed new property lines with the dimensions noted.
 - c. Name and address, including telephone number, of the property owner, the subdivider, and surveyor (when appropriate).
 - d. Any other information as required by Hubbard County.
2. The Environmental Services Director shall approve the Administrative Subdivision when the applicant complies with the Ordinance and is consistent with the *Hubbard County Land Use Plan* and any other official controls of the County.
3. If the Environmental Services Director is satisfied that such proposed division as described in Subdivision B, Item 1 is not contrary to applicable subdividing regulations, the Environmental Services Director shall have the authority to approve said divisions.
 - a. In the case of disapproval, the Environmental Services Director shall contact the applicant and state the reasons for such disapproval in writing.
 - b. In the case of approval, the Environmental Services Director shall indicate that such proposed division complies with this Ordinance.
4. After approval of an administrative subdivision application, the applicant must file the necessary deed(s) and documents with the Hubbard County Recorder within 180 days of the date of subdivision application approval to complete the subdivision process or the administrative subdivision application approval will be null and void. New administrative subdivision approved lots do not become legal lots of record until the deeds creating said lots are filed with the County Recorder. If the deed(s) are not recorded for the new lot(s) prior to an ordinance revision that makes any of the lot(s) approved through this process nonconforming, the administrative subdivision application approval will be null and void, and a new application will need to be processed in accordance with any new

ordinance requirements.

Section 5 Minor Subdivisions.

The purpose of a minor subdivision is to allow relatively simple and timely procedures for the subdivision of property. The provisions in this Section are not intended to replace platting requirements for larger properties so as to try to avoid plat requirements. The provisions in this Section are not intended for the subdivision of land that results in the creation of undeveloped parcels or remnants that may be further subdivided nor are these provisions intended to replace platting requirements for larger parcels. There shall be no subsequent subdivision of any property that has been included in a minor subdivision within a period of five years of the date any such subdivision of land was approved as part of an earlier minor subdivision application unless such subdivision is done by platting.

Subdivision A. General Requirements.

1. A subdivision qualifies as a Minor Subdivision provided all of the following conditions are met:
 - a. The subdivision is for development with a maximum of eight lots.
 - b. The minimum lot size shall be five acres (which may include public and private road right-of-way easements) and the minimum lot width shall be 300 feet.
 - c. Proposed lots shall have a minimum of 150 feet of road frontage if abutting an existing public road or shall have legal access to a public road right-of-way via a minimum 33 foot wide ingress and egress easement and at least 33 feet of frontage on said easement. Proposed subdivisions where five or more of the proposed lots do not abut a public road right-of-way and said lots' sole means of legal access to a public road shall be by easement only shall be required to provide a minimum 66 foot wide ingress and egress easement to said lots. No wetland(s) shall be partly or wholly located within either of the above-mentioned easements.
 - d. A maximum of four lots per quarter/quarter section of land (or Government Lot) shall front a side of an existing public road.
 - e. The minor subdivision shall not divide or re-plate a platted outlot.
2. Lots within a Minor Subdivision shall be described by Government Subdivision, recorded plat, registered land survey, or metes and bounds. Except for common boundary line adjustments, all new subdivisions in an existing plat of record shall be done by subdivision plat. No metes and bounds conveyances or metes and bounds access easements shall be allowed without an accompanying certificate of survey from a surveyor that shall include the following information:
 - a. Legal description of each lot (including the remainder)
 - b. Lot area
 - c. Structures and wells (for lots located within the Shoreland Management Ordinance

- jurisdictional area)
- d. Septic system components
 - e. Lot ingress and egress easement locations
 - f. All mathematical closures shall be shown on the certificate of survey
 - g. All overlaps or gaps shall be shown on the certificate of survey
 - h. All encroachments shall be shown on the certificate of survey
 - i. All bearing references shall be shown on the certificate of survey
 - j. All certificates of survey shall be tied to a minimum of two government corners, either section or quarter section corners.
 - k. All certificates of survey shall be tied to the Hubbard County Coordinates System.

Subdivision B. Minor Subdivision Procedure.

1. Prior to subdividing the property, the subdivider shall file an application for approval of a minor subdivision including the following:
 - a. A completed application on a form provided by the Environmental Services Department, documents demonstrating the subdivider has sufficient interest in the property to apply for a Minor Subdivision, and related information as required by Hubbard County.
 - b. Eight copies of a sketch that is at least 11" x 17" in size, prepared by a surveyor when determined necessary by the Environmental Services Director, containing the following information:
 - 1.) The original property description and the proposed legal descriptions of the proposed lots.
 - 2.) Proposed new property lines with the dimensions noted.
 - 3.) All contiguous property and all roads and their proper names.
 - 4.) Proposed use and driveway locations on the lots within the subdivision.
 - 5.) Location of all subsurface sewage treatment systems and their distance from existing and proposed lot lines.
 - 6.) General location of any water courses, drainageways, lakes and wetlands under the Wetland Conservation Act.
 - 7.) Location and provisions for individual water supply and sewage disposal for each lot that meet the requirements of Ordinance 41 – Subsurface Sewage Treatment System Ordinance.

- c. Name and address, including telephone number and email address, of the property owner, the subdivider (if not the owner), and surveyor.
 - d. A fee established by resolution of the County Board.
- 2.) The Environmental Services Director shall notify the subdivider if the application is found incomplete and shall identify the items required to complete the submittal.
- 3.) The Environmental Services Director shall distribute copies of the complete application to the following agencies prior to consideration by the Planning Commission:
 - a. MnDOT if abutting a state or federal highway, or access is requested from a state or federal highway.
 - b. County Highway Engineer if abutting a County highway or road.
 - c. The affected Township Board of Supervisors.
 - d. Any municipality within two miles of the affected property.
 - e. Any other agency such as the Soil and Water Conservation District deemed appropriate by the Environmental Services Director.
- 4.) Planning Commission Consideration and Action:
 - a. The Environmental Services Director may provide a courtesy notice to property owners abutting the proposed minor subdivision prior to action by the Planning Commission.
 - b. The subdivider shall appear before the Planning Commission to answer questions pertaining to the application.
 - c. The Planning Commission shall determine whether the minor subdivision conforms to the design standards established within this Ordinance.
 - d. The Planning Commission shall approve, approve with modifications, or deny the minor subdivision.
- 5.) Recording
 - a. After approval of a minor subdivision application, the applicant must file the necessary deed(s) and documents with the Hubbard County Recorder within 180 days of the date of subdivision application approval to complete the subdivision process or the minor subdivision application approval will be null and void. New minor subdivision approved lots do not become legal lots of record until the deeds creating said lots are filed with the County Recorder. If the deed(s) are not recorded for the new lot(s) prior to an ordinance revision that makes any of the lot(s) approved through this process nonconforming, the minor subdivision application approval will be null and void, and a new application will need to be processed in accordance with any new ordinance requirements.
 - b. No zoning permits shall be issued unless the applicant has furnished evidence that

the deeds of the lots or registered land survey have been filed with the County Recorder's Office.

Section 6 Platting Procedure.

No land platted under the jurisdiction of this Ordinance may be recorded or sold until the subdivision process described in this Section is completed. This process consists of: a preapplication meeting between the applicant and the Environmental Services Director; the submission to and review of preliminary and final plats by the Planning Commission and Hubbard County Board of Commissioners; and the approval of the final plat by the Hubbard County Board of Commissioners. No plat may be created which contains any public roads or public easements contained in any other plat, unless and until such roads or easements have been vacated from such existing plat. Except as provided in Sections 4 and 5 of this Ordinance, registered land surveys pursuant to Minnesota Statutes, Section 508.47; or successor statutes, shall be reviewed and considered for approval in the same manner as though a standard plat.

Subdivision A. Sketch Plan Review.

1. Prior to the submission of a preliminary plat to the Hubbard County Planning Commission under the provisions of this Ordinance, the subdivider shall meet with the Environmental Services Director to introduce himself/herself as a potential subdivider, and learn what shall be expected of him/her in such a capacity. (S)he shall also present a sketch of the proposed subdivision containing: his/her proposed lots and roads; and the physical features of the property.
2. The sketch plan and accompanying information shall serve as the basis for informal discussion between the subdivider and the staff. Submission of a sketch plan shall not constitute formal filing of a subdivision plat with the County. The Environmental Services Director will informally advise the subdivider of the extent to which the proposed subdivision conforms to the standards of County Ordinances and will discuss possible plan modifications as necessary to ensure conformance with this Ordinance.
3. The Environmental Services Director shall review the sketch plan to determine if environmental review documents must be completed in accordance with Minnesota Rules 4410.0200 – 4410.7800. If environmental review is required, the Environmental Services Director shall notify the subdivider of this requirement.

Subdivision B. Preliminary Plat.

1. Application Requirements: Following Sketch Plan Review, the subdivider shall submit the following to the Environmental Services Director:
 - a. A completed application on a form provided by the Environmental Services Office, and documents demonstrating the subdivider has sufficient interest in the property to apply for a subdivision.
 - b. Twenty-one (21) folded copies no smaller than 22 inches x 34 inches and five (5) 11 x 17 inch folded copies of a preliminary plat and supporting documentation of the proposed subdivision containing information required in Subdivision C of this Section, together with declarations, protective covenants, or restrictions, if any. The

Subdivider shall be required to furnish additional copies if requested.

- c. A subdivision fee established by resolution of the County Board.
 - d. Completed environmental review documents as required by law.
 - e. For proposed plats located within those townships that have a Township Planning Commission, a copy of the Township Board's signed written approval.
 - f. The Environmental Services Director shall notify the subdivider if the application is found incomplete and shall identify the items required to complete the submittal.
2. The Environmental Services Director shall distribute copies of the complete application and preliminary plat to the following agencies for review and comment prior to consideration by the Planning Commission and County Board:
- a. Mn/DOT, if abutting a state or federal highway, or access is requested from a state or federal highway.
 - b. County Engineer and
 - c. County Surveyor – for review of control monumentation.
 - d. The affected Board of Township Supervisors,
 - e. The city council of any municipality within two miles of the affected property, and
 - f. Any other agency, such as the Soil and Water Conservation District and watershed districts, deemed appropriate by the Environmental Services Director.
3. Each of these agencies will examine the preliminary plat, and return its comments to the Environmental Services Office by the Planning Commission meeting deadline for public comments. If no reply is received, the plat will be presumed to have preliminary approval of the agency/entity not replying.
4. Public Hearing Required.
- a. The Environmental Services Director shall set a date for a public hearing on the plat and submit the complete application, preliminary plat and comments from any agency listed above to the Planning Commission.
 - b. Notice of the public hearing stating the date, time, and location of the hearing before the Planning Commission; a description of the request to be heard; and the address or location of the property to be subdivided shall be:
 - 1.) published in the official newspaper of the County, a minimum of ten (10) days prior to the hearing.
 - 2.) written notice of the public hearing shall be mailed to property owners within ½ mile of the property to be subdivided, a minimum of ten (10) days prior to the hearing.
5. Planning Commission Hearing and Action.
- a. The subdivider shall appear before the Planning Commission to answer questions pertaining to the application and preliminary plat.
 - b. The Planning Commission may request the subdivider to submit additional information to properly consider the plan before or after the hearing.

- c. The Planning Commission shall determine whether the preliminary plat conforms to the standards established within this Ordinance and the *Hubbard County Land Use Plan*.
- 6. The Planning Commission shall recommend that the County Board approve, approve with modifications or deny the preliminary plat. If approval is not recommended to the County Board, the subdivider shall be notified of the reason for denial. The recommendation shall be forwarded to the County Board for consideration.
- 7. County Board Consideration and Action.
 - a. The County Board shall act on the preliminary plat after the Planning Commission makes a recommendation on the preliminary plat application.
 - b. The County Board shall approve, approve with modifications, or deny the preliminary plat and any subdivider requests for posting financial guarantees in lieu of constructing proposed public roads prior to final plat application.
 - c. If the County Board approves the preliminary plat, the subdivider shall proceed to complete a final plat in accordance with the requirements of this Ordinance.
 - d. Approval of a preliminary plat at by the County Board assures the general acceptability of the layout. Subsequent approval by the County Board will be required of a final plat as outlined in Subdivision D.
 - e. If the final plat has not been approved by the County Board within one year of preliminary plat approval, the preliminary plat shall be void, unless a request for a time extension is submitted by the subdivider at least 30 days before the end of the one year period and approved by the County Board.

Subdivision C. Preliminary Plat Requirements.

In addition to the requirements of Minnesota Statutes, Chapter 505, plats submitted for approval shall include, at a minimum, the following:

- 1. Identification and Description.
 - a. The proposed name of the subdivision, which shall not duplicate or be similar in pronunciation or spelling to the name of any other plat recorded in the County.
 - b. Legal description of the property.
 - c. Names and addresses of the property owners, the subdivider, and surveyor, engineer or designer of the plat.
 - d. A copy of the deed for the property to be platted or a valid purchase agreement showing the subdivider has legal standing in the property.
 - e. A north arrow and a graphic scale that is not less than 1inch to 200 feet.
 - f. Vicinity map of area showing geographical points for orientation within a ½ mile radius of the property.
 - g. Date of preliminary plat preparation.
- 2. Existing Features and Conditions.
 - a. The outside boundary line survey and legal description of the property to be subdivided.

- b. The total acreage of the property to be subdivided.
 - c. Location, right of way width and names of existing or platted streets or other public roadways; parks and other public lands; permanent buildings and structures including utility poles; public and private easements or other encumbrances and their purpose; section lines and township boundaries within the property to be subdivided and adjacent properties up to 100' beyond the outside boundary of the property to be subdivided.
 - d. All contiguous land owned or controlled by the owner of the property to be subdivided.
 - e. Topographic data showing contour intervals of two (2) feet within the boundaries of the property to be subdivided.
 - f. Water courses, drainageways, lakes, and wetlands delineated in accordance with the Wetland Conservation Act.
 - g. The ordinary high water mark shall be shown on plats that have riparian lots within the jurisdiction of the Hubbard County Shoreland Management Ordinance. When an ordinary high water level elevation has been established on a waterbody by the Minnesota Department of Natural Resources, this elevation shall be shown on plats that have riparian lots within the jurisdiction of the Hubbard County Shoreland Management Ordinance.
 - h. Hubbard County Soil Survey soil types classified and shown on the preliminary plat.
 - i. Description of the vegetation on the property drawn, depicted, and labeled on the preliminary plat.
 - j. Other information as required by Hubbard County.
3. Proposed Features and Conditions.
- a. Proposed lot and block layout, lot lines and dimensions including acreage and residential lot suitable area shown in measurement units of feet to the nearest 1/100 foot and acreage to two decimal places respectively, and lot and block numbers of all new lots.
 - b. Proposed uses and densities of all lots within the subdivision including public areas, drainage areas, common open space, and outlots.
 - c. The location and general design of individual access from lots within the subdivision to public roads.
 - d. Location, right of way, and width of all proposed roads and pedestrian/bicycle trails. A description of planned short and long-term road maintenance responsibility.
 - e. Location, right of way and width of road easement extensions to adjacent properties.
 - f. Location and width of proposed easements.
 - g. Subsurface Sewage Treatment System site evaluations submitted by a State of Minnesota licensed designer showing room on each proposed lot for a primary and alternate septic treatment system and these system areas be shown to scale on the preliminary plat.
 - h. If the entire property will not be developed, a sketch showing how the remaining property can be subdivided and how access will be provided.

- i. The naming and numbering of streets shall be in accordance with the Hubbard County Enhanced 911 Ordinance.
- j. Other information as required by Hubbard County.

Subdivision D. Final Plat.

1. The final plat shall be in substantial compliance with the preliminary plat and shall incorporate all of the conditions of the County Board approval of the preliminary plat.
2. The subdivider shall file the final plat no later than one (1) year from the date of approval of the preliminary plat by the County Board or the preliminary plat shall become void unless a request for a time extension is submitted by the applicant and approved by the County Board.
3. Application Requirements: The subdivider shall submit the following to the Environmental Services Director:
 - a. A complete application on a form obtained from the Environmental Services Office.
Seventeen (17) 22 x 34 inch folded paper copies and five (5) 11 x 17 inch folded paper copies of the final plat that meet the requirements of subpart 4 of this Subdivision. These copies shall conform substantially to the preliminary plat, as approved by the County Board.
 - b. The Environmental Services Director shall notify the subdivider if the submission is found incomplete and shall identify the items required to complete the submittal.
4. Final Plat Review
 - a. Planning Commission Review.
 - 1.) The Environmental Services Director shall submit the application, final plat and requirements and comments of the County staff to the Planning Commission.
 - 2.) The Planning Commission shall review the final plat and all supporting documentation for compliance with the preliminary plat approval by the County Board.
 - 3.) Following the recommendation of approval or disapproval of the final plat by the Planning Commission, the Environmental Services Director shall notify the subdivider of the recommendation made by the Planning Commission. If approval of the final plat is recommended, such plat shall be considered by the County Board of Commissioners. If disapproval is recommended, the subdivider may opt to withdraw the plat from consideration by the County Board and resubmit said plat to the Planning Commission after appropriate changes have been made.
 - 4.) A report of the Planning Commission recommendation shall be provided to the County Board.
 - b. County Board Action.
 - 1.) The County Board shall act on the Final Plat after the Planning Commission makes a recommendation on the final plat.
 - 2.) The County Board shall consider conformance of the final plat to the preliminary plat approval, the design standards of this Ordinance, the

comments and recommendations of the County staff, the Planning Commission recommendation, and Minnesota State Statutes. The County Board of Commissioners may either approve or disapprove the final plat based upon the recommendation of the Planning Commission and any other information that the Board deems appropriate.

5. Final Plat Recording

- a. Plat approval shall be null and void if the plat is not filed with the County Recorder within thirty (30) days after the date of approval, unless an application for extension has been made to the County Board, and such extension is granted.

6. Final Plat Data and Requirements.

- a. The form and content of the final plat shall conform to the *Minnesota Land Surveyors Association Plat Manual* of Minnesota Guidelines and Chapter 505 of Minnesota State Statutes and meet all requirements and laws of the State of Minnesota.
- b. Other data, certificates, affidavits, and endorsements that may be required by the County Board.
- c. Any financial guarantees required in lieu of road construction prior to final plat application as approved by the County Board shall be submitted to the Environmental Services Office in a form satisfactory to the County Board. The time period required for the completion of the road construction shall be specified in the resolution approving the final plat and shall be incorporated into the financial guarantee.
- d. Be approved in writing by a licensed land surveyor, other than the land surveyor who prepared said plat, as to the mathematical correctness and its conformity to Minnesota platting regulation.
- e. Be approved in writing by the County Engineer if the property access enters upon a county highway or by a state highway engineer if the property access enters upon a state highway.
- f. A signed written letter shall be submitted by the subdivider certifying that the constructed public road(s) meet all the requirements of this Ordinance. Written approval of the constructed public road(s) from the Environmental Services Office is also required.
- g. A current title opinion by a practicing Minnesota attorney to the description of the property being platted showing the title to be in the name of the owner or subdivider shall be submitted. "Current" shall mean that the title opinion or title commitment shall have originated within 30 days or less at the date of submission of the final plat application. The owner or subdivider shown in the title opinion shall be the owner of record of the platted lands on the date of recording of the plat with the County Recorder.

Section 7 Plat Design Standards

Subdivision A. Land Requirements.

1. Each lot created through subdivision must be suitable in its natural state for the

proposed use with minimal alteration. Suitability analysis 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 or County.

2. Proposed subdivisions shall be designed to take into account the surrounding properties, natural features, environmental conditions and public access to allow for coordinated, attractive and efficient development within the County.
3. Proposed development shall conform to the *Hubbard County Land Use Plan*.

Subdivision B. Lots.

1. Each new lot created under the platting process located outside of the Hubbard County Shoreland Management Ordinance jurisdictional area shall meet a minimum lot width requirement of 150-feet and have an area of no less than 2.25 acres (98,010 square feet). This area shall not include the public road right-of-way square footage. Each lot must also have a minimum contiguous buildable area of 49,000 square feet.
2. For lots created in sewered areas located outside of the Hubbard County Shoreland Management Ordinance jurisdictional area, each lot must contain a minimum lot size of 30,000 square feet with a minimum of 100-feet of width. This area shall not include the public road right-of-way square footage. Each lot must also have a minimum contiguous buildable area of 20,000 square feet. Sewered lot area dimensions can only be used if publicly and/or commonly owned sewer system service is available on the property.
3. As the Hubbard County Subdivision Ordinance is currently silent on commercial lots located outside of the Hubbard County Shoreland Management Ordinance jurisdictional area, if a township has enacted a land use ordinance that specifies the size of lots within a commercial district located outside of the Hubbard County Shoreland Management Ordinance jurisdictional area to be less restrictive than the Hubbard County Subdivision Control Ordinance minimum lot size requirements, Hubbard County shall accept the township's commercial lot size requirements for commercial lots located outside of the Hubbard County Shoreland Management Ordinance jurisdictional area.
4. Each new lot created under the platting process located within the Hubbard County Shoreland Management Ordinance jurisdictional area shall meet the Hubbard County Shoreland Management Ordinance minimum lot size requirements.
5. Side lot lines shall be approximately at right angles to street lines or radial to curved streets unless environmental or topographic conditions require different dimensions.
6. Every lot must have at least 75 feet of frontage on a public road or approved private road and have adequate legal access to a public road.
7. Every lot must have a minimum of four lot lines consisting of the following: one front lot line, one rear lot line, and two side lot lines.

8. All remnants of lots below the minimum lot size shown within the property to be subdivided shall be added to adjacent lots, unless a plan for the use of the remnant is approved by the County Board.
9. Outlots may be platted within a subdivision to delineate future development phases or commonly owned open space. No zoning permits shall be issued for outlots unless approval has been obtained by the County Board. Outlots must have a stated purpose.
10. No lot within a subdivision shall contain both abstract and Torrens lands or extend over a political boundary or school district line.
11. **Reduced Lot Widths.** Lots in the Shoreland Management Ordinance (SMO) jurisdictional area are allowed certain reduced front or rear lot line widths per Section 501.7 of the SMO. To allow reasonable flexibility in the design of lots allowed per Section 7, Subdivision B.1 and Subdivision B.2 of this Ordinance, lot widths may be reduced at either a front or rear lot line (but not both) to no less than one-half the required minimum lot width provided the following conditions are met:
 - a. The total number of lots in a subdivision does not exceed the total linear road feet serving the subdivision divided by the required minimum lot width. Lots designed and approved to be served by existing roads shall be calculated separately from lots to be served by newly constructed roads;
 - b. The minimum required lot width is met at: 1. either the front or rear lot line and at the midpoint of the lot depth or 300 feet from the front lot line, whichever is closer to the front lot line;
 - c. Each lot contains the applicable required minimum buildable area exclusive of any portion of the lot not meeting minimum width requirements.

Subdivision C. Blocks.

1. Block Length - In general, intersecting street and roads, determining block lengths, shall be provided at such intervals as to serve cross-traffic adequately and to meet existing streets and roads. Where no existing plats control, the blocks in residential subdivisions shall normally not exceed thirteen hundred twenty (1,320) feet in length, except where topography or other conditions justify a departure from this maximum. Blocks shall be no shorter than 300 feet unless the Environmental Services Director determines that an exception is warranted. In blocks longer than eight hundred (800) feet, pedestrian ways and/or easements through the block may be required near the center of the block. Blocks for commercial use should normally not exceed six hundred (600) feet in length.
2. Block Width - The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for commercial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

Subdivision D. Roads.

1. The arrangement of roads shall include consideration to the reasonable circulation of traffic within the subdivision and adjacent existing and future supporting road networks,

topographic and environmental conditions, storm water drainage, to public convenience and safety, and the proposed uses of the area to be served.

2. Where new streets extend adjoining streets, their projects shall be at the same or greater width, but in no case less than the minimum width required herein. Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions or shall be a reasonable projection of roads in the nearest subdivided tracts.
3. Cul-de-sacs are permitted when designed to permit future road extensions into adjoining properties or where topography, environmental, land use or existing conditions justify their use as approved by the County Board. Cul-de-sacs shall not exceed 1320 feet in length (measured from the centerline of the road of origin to the end of the right-of-way.) Cul-de-sacs shall include a terminal turn-around which shall be provided at the closed end, with an outside curb or shoulder radius of at least fifty (50) feet and a right-of-way radius of not less than sixty-six (66) feet.
4. Where the subdivision includes only part of the property owned or intended for development by the subdivider or owner, a build out plan illustrating the proposed future road system for the unsubdivided portion must be prepared and submitted by the subdivider or owner.
5. When a lot within a subdivision is large enough to be further subdivided, the lot must be so arranged as to permit the logical location and openings of future roads and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.
6. Roads shall be designed to intersect at approximately right angles, except where topography, environmental or other conditions justify variations.
 - a. The minimum angle of intersection of roads shall be seventy (70) degrees.
 - b. Road intersection jogs with an offset of less than 125 feet shall be avoided.
7. The grades in all roads in any subdivision shall not be greater than ten percent, unless said grade is deemed acceptable by the County Engineer.
8. The minimum right of way widths for roads shall be as follows except where existing or anticipated traffic on the roadway warrants greater right of way widths as determined by MnDOT and/or the County Engineer and as allowed by law:

Local Road	66 feet
Cul-de-sac turn-around	132 feet
9. No public street connection shall be located within a turn lane to another public street or a private driveway.
10. All plats proposing to access any county road right-of-way shall be reviewed and approved by the Hubbard County Engineer.
11. Access management – In the interest of public safety, whenever the proposed

subdivision contains or is adjacent to the right-of-way of a County State Aid, State, or Federal highway, provisions shall be made for a service road approximately parallel and adjacent to the boundary of such right-of-way, or for a road at a distance suitable for the appropriate use of land between such road and right-of-way. Such distance shall be determined with due consideration for the minimum distance required for approach connections to future grade separations, or for lot depths. Road access to public roads shall not be permitted at intervals of less than 600 feet.

12. Platted roads shall be either private or public per the following requirements:

a. Private roads

- 1.) Shall be conveyed as outlots on the final plat with a dedicated undivided ownership among all lots served by the road. Notice that the road shall never be publicly maintained without official acceptance by the proper road authority shall be recorded on the plat in the dedications and in the covenants and restrictions.
- 2.) Shall have a minimum 66 foot wide right of way.

b. Public roads

- 1.) Shall be dedicated to the public on the final plat.
- 2.) Shall have a minimum 66 foot wide right of way.
- 3.) Shall comply with all provisions of Appendix A.
- 4.) The constructed roadbed shall be centered within the right-of-way.
- 5.) Shall be constructed by the subdivider and subsequently approved by the County prior to final plat application except when a subdivider:
 - a.) Requests and receives approval from the County Board during preliminary plat consideration to post a financial guarantee per Section 8, Subdivision A, Item 3 prior to final plat application in lieu of the requirement to construct and receive approval on proposed public roads within the plat prior to final plat application.

13. Road names shall be approved by the E911 Coordinator and shall not be similar to any other roadway within the County.

14. All platted subdivisions shall abut a public roadway that is accepted and maintained by some level of government (township, county, state, or federal).

Subdivision E. Lot Access (Driveways).

1. Every lot must have adequate legal vehicular access to a public road or approved private road. Reserve strips and land-locked areas shall not be created.
2. All lots within the subdivision and adjacent properties shall be provided access from the subdivision roadway unless no road has been designed within the subdivision or the County Board finds that topography, environmental conditions or existing development prohibits access from the subdivision roadway.
3. No private access connection shall be located within a turn lane to a public road or

another private driveway.

4. When either the County Engineer or MnDOT determines that a turn lane from a county or state road onto a plat access road is needed to provide a safe intersection, the developer shall pay the full costs associated with said turn lane's installation.

Subdivision F. Easements.

1. Utility easements shall be provided in accordance with the following:
 - a. Utility easements at least twenty (20) feet wide shall be provided abutting or partially or wholly through each lot line, unless a greater width is required by the County Board.
 - b. Utility easements shall have continuity of alignment from block to block and connect with easements established in adjoining properties, to the extent possible as determined by the County.
 - c. These easements, when approved, shall not thereafter be changed without the approval of the County Board, by ordinance, upon the recommendation of the Planning Commission.
 - d. On State and County roads, additional right of way shall be dedicated as required by MnDOT and/or the County Engineer.
2. Easements shall be shown or accompany the final plat and dedicated for the intended use.
3. Approved private road access must be legally described in all property subdivisions and recorded with the County Recorder.

Subdivision G. Stormwater Drainage Standards.

1. The County Board may require a stormwater management plan in order to reduce the amount or protect the quality of stormwater runoff that may be created during and after the process of development.
2. In instances when a stormwater management facility will require future maintenance, the subdivider shall submit a plan that shall indicate how the facility will be maintained and who will be responsible for the maintenance of the facility.

Section 8 Installation and Maintenance of Basic Improvements.

Subdivision A. General.

1. All improvements required by this Ordinance shall be designed by the subdivider and installed at the expense of the subdivider.
2. All subdivision boundary corners, blocks and lot corners, road intersection corners and points of tangency and curvature shall be marked with survey monuments meeting the requirements of State law. All federal, state, County and other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in

their precise position unless a relocation is approved by the responsible agency.

3. If the subdivider requested and was granted approval from the County Board for the option of posting a financial guarantee in lieu of constructing public roadway(s) within the subdivider's proposed plat prior to final plat application, the subdivider shall make a financial guarantee per the following requirements:
 - a. The financial guarantee shall be submitted prior to final plat application for an amount that is 200 percent of the estimated cost of the road(s) construction per a signed estimate submitted by a licensed and bonded contractor.
 - b. Said financial guarantee will be secured for an indefinite time period.
 - c. The subdivider will have 365 calendar days from the date of final plat approval by the County Board to construct the public roads in the plat, unless the County Board approves a different timeline in its motion to approve the financial guarantee.
 - d. If the roads are constructed by the subdivider and thence approved by the County within the County Board approved timeline, the County will release the financial guarantee to the subdivider.
 - e. If the roads are not constructed by the subdivider and thence approved by the County within the County Board approved timeline, the County will utilize the financial guarantee to properly construct the public roads in the plat.
4. Completed Improvements
 - a. Improvements within a subdivision that are completed after preliminary plat approval by the County Board may be accepted as the required improvements, subject to the review and approval by Hubbard County.
 - b. Any financial guarantee for public improvements constructed per Section 7, Subdivision D, Item 12.b.4 shall not be released until:
 - 1.) The subdivider has certified to the Environmental Services Office that all public improvements are completed and comply with the Hubbard County Road Standards shown in Appendix A.
 - 2.) The public improvements are accepted by the County Board.

Subdivision B. Required Improvements.

1. Public Roadways. See Appendix A for an outline of minimum design standards and construction specifications.
 - a. All new public roads shall be constructed in compliance with all minimum design standards and constructions specifications in Appendix A.
 - b. Right turn lanes, left turn lanes, and/or bypass lanes shall be required on County or State roads providing access to a subdivision where MnDOT traffic counts, traffic speeds, turning movements and/or other considerations warrant such improvements to protect public safety.
2. Other Public Utilities.
 - a. All utility lines for telephone, cable and electric service shall be placed in lot easements.

- b. Telephone, electric, cable and/or gas service lines shall be placed within easements so as not to conflict with other underground services. All drainage and other underground utility installations, which traverse privately owned property, shall be protected by easements.

Section 9 Violations and Penalties

Subdivision A. 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 within any subdivision unless the subdivision has been recorded in the County Recorder's Office.

Subdivision B. Receiving and Recording Unapproved Plats.

It shall be unlawful to receive or record in any public office any subdivision of land unless it has been approved by the Environmental Services Director or the County Board.

Subdivision C. Misrepresentations Pertaining to Improvements.

It shall be unlawful for any person owning an addition or subdivision of land within the County to represent that any improvements within the addition or subdivision have been supervised, inspected, or constructed according to the approved plans when such actions have not occurred.

Subdivision D. Penalties.

This Ordinance shall be administered by the Environmental Services Director.

Any person, firm, or corporation who violates any of the provisions of this Ordinance, fails to comply with any of the Ordinance provisions, or makes or submits any false statements in the required submittals, shall be guilty of a misdemeanor and, upon conviction, be punished by a fine of an amount not to exceed that allowed by law and/or by imprisonment as allowed by law. Each day that a violation continues shall constitute a separate offense.

In the event of a violation or threatened violation of this Ordinance, the County Board, in addition to other remedies, may institute actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

Subdivision E. Validity.

If any section, subdivision or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof.

Subdivision F. Amendments.

The County Board may introduce and consider amendments to this Ordinance as proposed by a

Board member, the Planning Commission, the Environmental Services Director, or by petition of a person residing or owning property within the County.

Subdivision G. Fees.

In order to defray the administrative costs associated with the processing of applications for amendments, subdivisions, and subdivision plat approval, a schedule of fees has been adopted by the Hubbard County Board of Commissioners. The schedule of fees shall be posted in the Office of Environmental Services, and may be altered or amended only by resolution of the County Board of Commissioners.

Refunds. Should a permit, application, or appeal be denied, the fee shall not be refunded.

Subdivision H. Repeal of Existing Ordinance.

Hubbard County Subdivision Ordinance, Ordinance No. 35 as adopted July 5, 2006, and amended on March 26, 2009, July 27, 2011, June 24, 2015, December 28, 2016, and April 3, 2018 is hereby amended and replaced by this ordinance.

Subdivision I. Interference with County Access or Administration/Enforcement Prohibited

All employees of the Hubbard County Environmental Services Department, members of the County Board of Commissioners, Planning Commission and Board of Adjustment, in the performance of their duties shall have free access to all land included within the jurisdiction of this Ordinance. Access to the land shall be during normal business hours unless an emergency exists.

No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

Section 10 Effective Date

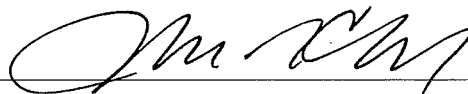
This Ordinance, as amended, shall be in full force and effect on May 18, 2021 after its passage and publication according to law.

Approved and adopted this 18th day of May, 2021.



David De La Hunt, County Board Chair

ATTEST:

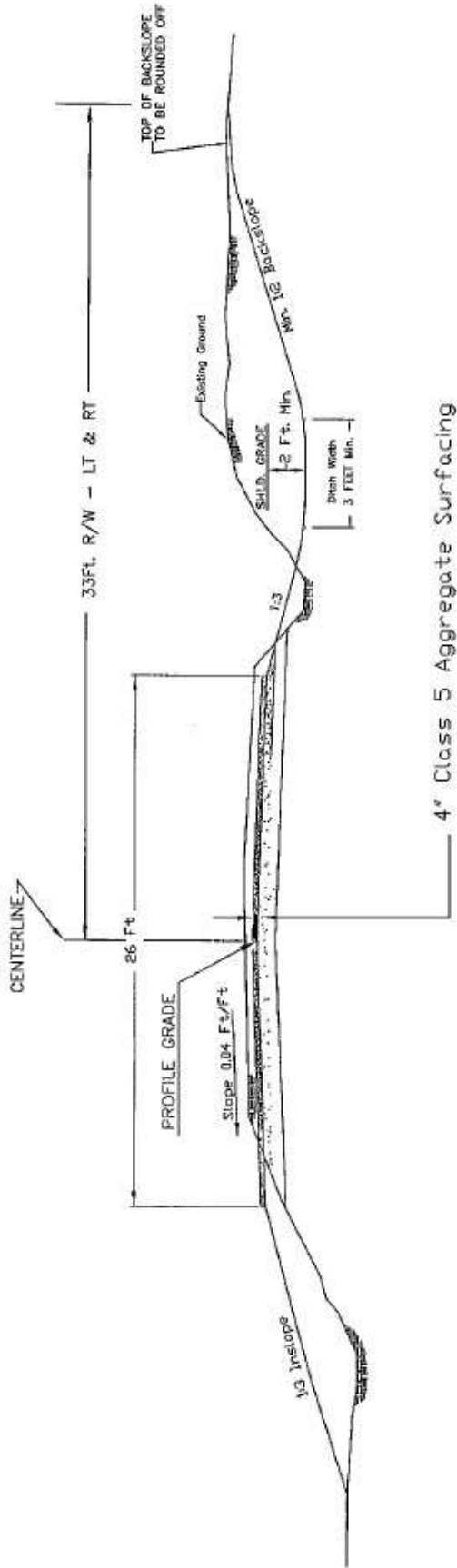


Jeff Cadwell, County Administrator

Published in the *Park Rapids Enterprise*, this 5th day of June, 2021.

TYPICAL GRADING SECTION

66 Foot Right of Way



Appendix A Public Road

Hubbard County Ordinance #36

An Ordinance regulating the use of off highway vehicles on County Administered Tax-Forfeited Lands.

Purpose

An ordinance is to regulate the use of off highway vehicles on county administered lands in order to protect the long term sustainability of these lands and provide management strategies that are consistent with those strategies adopted by the Minnesota Department of Natural Resources to minimize confusion on the part of the users of public lands.

Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Ordinance its most reasonable application. For the purpose of this Ordinance, the words "must" and "shall" are mandatory; the word "may" and "should" is permissive. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number as well.

ATV - "All-terrain vehicle" means a motorized flotation-tired vehicle of not less than three low pressure but not more than six tires, that is limited in engine displacement to less than 800 cubic centimeters.

County Administered Tax Forfeited Lands: State owned lands held in trust for the taxing districts which are administered by the County

Designated trails. – Trails that are indicated on maps, and/or signed for specific uses.

DNR: Minnesota Department of Natural Resources

Forest Road: are not public roads like federal, state, county or local highways. Forest roads are typically open to use by both highway –licensed and off highway vehicles but are subject to closure to some or all types of vehicles at various times for safety or resource management reasons. Forest roads are classified as system or minimum maintenance depending on the frequency of use and intended maintenance standards

Highway Licensed vehicles: Any motor vehicle current and duly licensed for public highway/road travel.

Limited Forest – means motorized vehicles may operate only on forest roads and trails that are posted or designated as open.

Minimum Maintenance road – forest roads that are used for forest management access on an intermittent basis. These roads normally are not through roads and may be gated and opened only during certain times of the year. These roads are typically not maintained to the level where low clearance highway vehicle can routinely travel on them and will be signed for specific uses.

Motor Vehicle – Any self-propelled vehicle including, but not limited to , automobiles, trucks, dune buggies, minibikes, motorcycles, trail bikes, and all terrain vehicles (ATVs), but not including snowmobiles.

Non-designated trails – trails that are not designated and signed for a specific use and are therefore generally closed to motorized use in a limited forest.

Non Motorized trail: Trails that are designated and/or signed for recreational use including but not limited to walking, hiking, ski, horse and bicycling.

OHM - “Off-highway motorcycle” means a motorized, off-highway vehicle traveling on two wheels and having a seat or saddle designed to be straddled by the operator and handlebars for steering control, including a vehicle that is registered under chapter 168 for highway use if it is also used for off-highway operation on trails or unimproved terrain.

OHV – Off Highway vehicle - a generic term used to refer to all terrain vehicles (ATV), off-Highway motorcycles (OHM), and off road vehicles (ORV).

ORV - “Off-road vehicle” means a motor-driven recreational vehicle capable of cross-county travel on natural terrain without benefit of a road or trail. Off-road vehicle does not include a snowmobile; an all-terrain vehicle; a motorcycle; a watercraft; a farm vehicle being used for farming; a vehicle used for military , fire, emergency, or law enforcement purposes; a construction or logging vehicle used in the performance of its common function; a motor vehicle owned by or operated under contract with a utility, whether publicly or privately owned, when used for work on utilities; a commercial vehicle being used for its intended purpose; snow-grooming equipment when used for its intended purpose; or an aircraft.

System Forest Road – are more frequently used and will typically be designed and maintained to a higher standard graveled with class five material that allows use by most highway – licensed vehicles

General Provisions and Responsibility :

The County Administered Tax-Forfeited Lands have been classified as limited which means a person may operate a motor vehicle only on forest roads and trails designated and or posted open. This ordinance does not apply to motor vehicles used to carry out silvicultural activities, including timber cruising, harvest and transport of forest products for commercial purposes.

Section I It is unlawful to construct unauthorized permanent trails on County Administered Tax-Forfeited Lands.

Section II OHV operation requirements on Forest Land

- (a) It is unlawful to use off highway vehicles for cross country travel off designated roads and trails except during big game and trapping seasons as provided in Mn Statute 84.926 subd. 2 & 4. The designated roads and trails are those included in the Forest Road and Trail Designation Plan for DNR and County Administered forest land in Hubbard County adopted on March 17, 2006, with modifications as warranted. The roads & trails are signed for specific uses.
- (b) No person shall operate a motor vehicle on forest lands on or over the beds of lakes, rivers, or streams when ice is not covering the water body, except on a bridge culvert, or similar structure or designated low water crossing.
- (c) No person shall operate a motor vehicle or snowmobile on forest lands on a designated nonmotorized trail, including ski, foot, horse, or bike trail, unless the trail is also posted open for a motorized use.

- (d) No person shall operate nor shall an owner permit the operation of a motor vehicle or snowmobile on forest lands in such a manner that causes damage, erosion or rutting or injures, damages roads and land, or destroys trees, growing crops or other natural resources.
- (e) No person shall operate motor vehicles or snowmobiles on forest lands within the boundaries of an area that is posted and designated as closed to the operation of motor vehicles or snowmobiles.
- (f) No person, passenger, or operator of a motor vehicle shall travel on or along a forest road that is designated as closed with signs, barricaded, or blocked with a gate.
- (g) A motor vehicle on a forest road shall travel at a speed that is reasonable and prudent. All posted parking and traffic signs and regulations, including but not limited to speed, stop, traffic flow –one way and do not enter shall be obeyed at all times on all forest roads and trails.

Responsibility: The Hubbard County Sheriff or his duly Authorized Representative shall have the right and duty to administer this ordinance. The Sheriff shall have the necessary authority to implement and carry out the provisions of this ordinance.

Variance: Variances to this ordinance may be requested and considered by the County Board of Commissioners for special circumstances.

Enforcement: In the event of violation of this Ordinance the County Board of Commissioners or their designees, in addition to other remedies, may take appropriate actions or proceedings to prevent, restrain, correct or abate such violations and it shall be the duty of the Hubbard County Attorney to institute such action. Whoever is guilty of violating this ordinance or any provisions of this ordinance is guilty of committing a misdemeanor.

Effective Date: This Ordinance shall be in full force and effect from and after its approval, passage, and publication as provided by law.

THIS ORDINANCE ORDAINED AND ENACTED by the Board of County Commissioners of the County of Hubbard, State of Minnesota, on this 21st day of March, 2007

BOARD OF COUNTY COMMISSIONERS

BY: /s/ Cal Johannsen

ATTEST /s/ Jack Paul,
County Coordinator



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HUBBARD COUNTY, MINNESOTA
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HUBBARD COUNTY RECORDER
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TAX EXEMPT _____

ORDINANCE NO. 39

SOCIAL HOST

- Subd.1 Purpose and Findings
- Subd.2 Authority
- Subd.3 Definition
- Subd.4 Prohibited Acts
- Subd.5 Exceptions
- Subd.6 Enforcement
- Subd.7 Penalty
- Subd.8 Effective Date

Subd.1 PURPOSE AND FINDINGS.

The Hubbard County Board of Commissioners intends to discourage underage possession and consumption of alcohol, marijuana or other controlled substances, 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, marijuana or other controlled substances, regardless of whether the person hosting the event or gathering supplied the alcohol, marijuana or other controlled substances.

The Board of Commissioners of the county finds that:

- (a) Events and gatherings held on private or public property where alcohol, marijuana or other controlled substances are possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public; from injuries related to alcohol, marijuana and/or other controlled substances consumption, such as alcohol overdose or alcohol-related and/or marijuana-related traffic collisions.
- (c) Alcohol, marijuana or other controlled substances are addictive drugs which, if used irresponsibly, could have drastic effects on those who use them as well as those who are affected by the actions of an irresponsible user.
- (d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity and, in some circumstances, provide the alcohol, marijuana and/or other controlled substances.
- (e) Even though giving or furnishing alcohol, marijuana or other controlled substances to an underage person is a crime, it is difficult to prove and an ordinance is necessary to help further combat underage consumption.
- (f) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Subd.2 AUTHORITY.

This ordinance is enacted pursuant to M.S. § 145A.05.1, as it may be amended from time to time.

Subd.3 DEFINITIONS.

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOL. 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. Alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer and which contains 0.5% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

CONTROLLED SUBSTANCE. A drug, substance, or immediate precursor in Schedules I through V of M.S. § 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco. Such term does not include any drug or substance for which the individual found to have consumed such substance has a valid prescription issued by a licensed medical practitioner authorized to issue such a prescription.

EVENT or GATHERING. Any group of two or more persons who have assembled or gathered together for a social occasion or other activity.

HOST. To aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event.

MARIJUANA/CANNABIS. All parts, as a whole or in part, of the Cannabis plant, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, and concentrated marijuana. The prohibition herein includes marijuana in any form including, but not limited to, cigarettes, vapor, food products, or any other product of marijuana that can be smoked or ingested.

PARENT. Any person having legal custody of a juvenile:

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

PERSON. Any individual, partnership, co-partnership, corporation or any association of one or more individuals.

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

UNDERAGE PERSON. Any individual under 21 years of age.

Subd.4 **PROHIBITED ACTS.**

- (a) It is unlawful for any person(s) to host or knowingly allow an event or gathering at any residence, premises or on any other private or public property, where alcohol or alcoholic beverages, marijuana or other controlled substances are present, when the person knows or reasonably should know that an underage person will or does consume any alcohol or alcoholic beverage, marijuana or other controlled substances, or possess any alcohol or alcoholic beverage, marijuana or other controlled substances with the intent to consume it, and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- (b) A person is criminally responsible for violating subdivision 4(A) above if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.
- (c) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Subd.5 **EXCEPTIONS.**

- (a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- (b) This ordinance does not apply to legally-protected religious observances.
- (c) This ordinance does not apply to retail intoxicating liquor or 3.2% malt liquor licensees, municipal liquor stores or bottle club permit holders who are regulated by M.S. § 340A.503.1(a)(1), as it may be amended from time to time.

(d) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverage during the course or scope of employment.

Subd.6 ENFORCEMENT.

This ordinance can be enforced in the county by any peace officer licensed in the state.

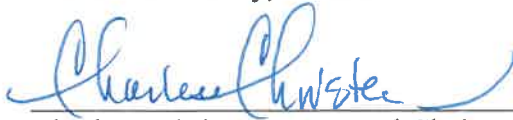
Subd.7 PENALTY.

Violation of Subdivision 4 is a misdemeanor, which is punishable by up to 90 days in jail and/or a fine of up to \$1,000.

Subd. 8. EFFECTIVE DATE.

This Amendment 1 to Ordinance 39, enacted by the Hubbard County Board of Commissioners on March 3, 2020, shall be in full force and effect from and after its passage, approval and publication, as provided by law. The effective date of the Ordinance shall be April 4, 2020.

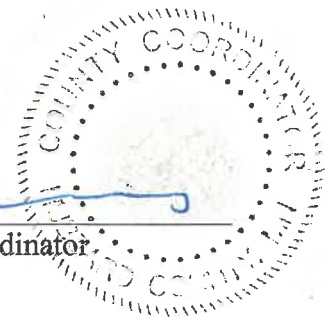
**Board of County Commissioners
Hubbard County, Minnesota**



Charlene Christenson, Board Chair

Attest: 

Eric Nerness, Coordinator



HUBBARD COUNTY ORDINANCE

ORDINANCE FOR THE OPERATION OF ALL MINI TRUCKS ON ROADS WITHIN THE COUNTY'S JURISDICTION

SECTION I. PURPOSE

Except as herein specifically addressed or modified, the provision of Minnesota Statutes § 169.045 and § 169.011 subdivision 40a, are hereby incorporated by reference.

Minnesota Statute § 169.045 regulates the use of mini trucks. Consistent with this statute, and to provide for the health, safety and welfare of its citizens, the Hubbard County Board of

Commissioners hereby ordains the following provisions to allow the use of mini trucks on all public roads within Hubbard County except State and Federal roads.

SECTION II. DEFINITIONS

The following definitions apply to this Ordinance.

- A. Mini truck means a motor vehicle that has four wheels that is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less, has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator, commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle, and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, § 571.101 to § 571.404, and successor requirements.

A mini truck does not include:

- i. A neighborhood electric vehicle or a medium-speed electric vehicle;
- or

- ii. A motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, § 571.500, and successor requirements.
- B. County means the County of Hubbard, Minnesota.
- C. County State Aid Highway (CSAH) means all roads designated in Hubbard County as County State Aid Highway.
- D. County Aid Road (CAR) means all roads designated as County roads.
- E. Roadway means all the road right-of-way.

SECTION III.
PERMITTED OPERATION OF MINI TRUCKS ON ROADS IN
HUBBARD COUNTY

Except as provided below and in Minnesota Statutes § 169.045, it shall be permissible to operate a mini truck on the following roads in Hubbard County by permit:

All gravel surfaced CSAH and CAR and all paved CSAH and CAR.

1. Persons operating mini-trucks on CSAH and CAR must operate the mini-truck in a safe and prudent manner.
2. Pursuant to Minnesota Statute § 169.045, persons operating mini trucks on the roadways in Hubbard County must have a permit. The Sheriff's Office shall issue permits and may recommend the denial of a permit if the applicants driving status is revoked, suspended, or cancelled. The Sheriff's Office shall collect a fee, as determined by the County Board, for the issued permit.

Requirements for a permit per Minnesota Statute § 169.045.

1. Application shall be made in a form supplied by the County and shall contain the information listed below. All permits shall be issued for a specific mini truck. The permit shall be issued with a specific license number, and the applicant is responsible for obtaining self-adhesive numbers at least three inches tall and applying them to both front and rear of that specific mini truck.
2. All mini truck owners must provide proof of liability insurance at all times when operating on a roadway and a certificate of insurance must be submitted at the time of the permit application.

3. The make, model number, serial number and year of the mini truck are required.
4. The applicant shall supply a current valid driver's license showing name, address and age. The driver's license shall be photocopied for the county's records.
5. The mini truck shall be inspected by the Sheriff's Office to determine that it has the required equipment pursuant to Minnesota Statute § 169.045 Subdivision 7a.
6. The permit shall be issued for a three year period (August 1st – July 31st) and the fee paid. No pro-rated fees shall be paid, and no refunds shall be allowed.

Except as otherwise provided in this Ordinance, all operation of mini trucks shall be in compliance with Minnesota Statutes § 169.045, as well as any other federal, state, or local law, rule or regulation.

SECTION IV.
PENALTY

A violation of this ordinance is a misdemeanor subject to a penalty not to exceed 90 days and/or \$1,000.00.

EFFECTIVE DATE

This ordinance shall be in full force and effect on August 1, 2012, upon adoption by the Hubbard County Board and publication pursuant to Minnesota law.

Adopted this 3rd day of July, 2012.

**Hubbard County Board of
Commissioners**

Richard L. Devine, Chairman

Attest:

Debbie Thompson,
Hubbard County Coordinator

Subsurface Sewage Treatment System
Ordinance
Hubbard County

County Ordinance No. 41

February 4, 2014

Revised: April 3, 2018
May 4, 2021

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Hubbard County Ordinance No. 41

Subsurface Sewage Treatment Systems

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

- 1) Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as subsurface sewage treatment systems [SSTS]) in unsewered incorporated areas that have not adopted ordinances that are as strict as this ordinance and unincorporated areas of Hubbard County incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency,
- 2) Requirements for issuing permits for installation, alteration, repair or expansion of SSTS,
- 3) Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan,
- 4) Standards for upgrade, repair, replacement, or abandonment of SSTS,
- 5) Penalties for failure to comply with these provisions,
- 6) Provisions for enforcement of these requirements, and
- 7) Standards which promote the health, safety and welfare of the public as reflected in Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the County Comprehensive Plan, and the County Shoreland Ordinance.

Article I Purpose and Authority

Article I, Section 1.0 Purpose and Intent

1.01 Purpose

The purpose of this Ordinance is to establish minimum requirements for regulation of individual subsurface sewage treatment systems (ISTS) and midsized subsurface sewage treatment systems (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. It is intended to serve the best interests of the County's citizens by protecting its health, safety, general welfare, and natural resources.

1.02 Intent

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

- A. The protection of lakes, rivers and streams, wetlands, and groundwater in Hubbard County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.

- B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting against the degradation of surface water and groundwater quality.
- C. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- E. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater-related hazards, and public nuisance conditions.

Article I, Section 2.0 Authority

This Ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Sections 145A.01 through 145A.08; Minnesota Statutes, Section 375.51; or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082; or successor rules.

Article I, Section 3.0 Effective Date

The provisions set forth in this Ordinance shall become effective on May 22, 2021.

Article II Definitions

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

Authorized Representative: An employee or agent of the County Environmental Services Department.

Board of Adjustment: The Hubbard County Board of Adjustment as appointed by the Hubbard County Board of Commissioners.

County: Hubbard County, Minnesota.

County Board: The Hubbard County Board of Commissioners.

Department: The Hubbard County Environmental Services Department.

Environmental Services Director: The Environmental Services Director of Hubbard County or the Hubbard County Board’s authorized agent or representative.

Lot: "Lot" means a parcel of land in a plat recorded in the office of the county recorder or registrar of titles or a parcel of land created and conveyed, using a specific legal description.

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

Minor Repair: The repair or replacement of an existing damaged or faulty component/part of an SSTS excluding septic tanks and soil dispersal systems 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 or be made to a septic tank (except for allowed baffle repair) or soil dispersal system.

MPCA: Minnesota Pollution Control Agency.

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

State: The State of Minnesota.

Type 4 Wetlands: Inland deep fresh marshes in which soil is usually covered with six inches to three feet or more of water during the growing season. Vegetation includes cattails, reeds, bulrushes, spikerushes, and wild rice. In open areas, pondweeds, naiads, coontail, water milfoils, waterweeds, duckweeds, water lilies, or spatterdocks may occur. These deep marshes may completely fill shallow lake basins, potholes, limestone sinks, and sloughs, or may border open water in such depressions.

Type 5 Wetlands: Inland open fresh water, shallow ponds, and reservoirs in which water is usually less than ten feet deep and is fringed by a border of emergent vegetation similar to open areas of type 4 wetland.

Wetland Type or Type: "Wetland type" or "type" means a wetland type classified according to Wetlands of the United States, United States Fish and Wildlife Service Circular 39 (1956 and 1971 editions), as summarized in this subpart. "Classification of Wetlands and Deepwater Habitats of the United States" (Cowardin et al., 1979 edition) is a separate, parallel wetland typing system that may be used to characterize components of a wetland.

Article III General Provisions

Article III, Section 1.0 Scope

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

accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.

Article III, Section 2.0 Jurisdiction

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas that administer a SSTS program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Ordinance.

Article III, Section 3.0 Administration

3.01 County Administration

The County Environmental Services Department shall administer the SSTS program and all provisions of this Ordinance.

3.02 State of Minnesota

SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance.

3.03 Cities and Townships

Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.

3.04 Amendments

The procedure for amendments to this Ordinance shall be as follows:

- A. An amendment may be initiated by a property owner, the Planning Commission, or the County Board of Commissioners. Property owners wishing to initiate an amendment shall fill out an application for amendment form, available from the Department. Such application shall be filled out and submitted to the Department together with the appropriate fee.
- B. The applicant shall appear before the Planning Commission to answer any questions that Commission members may have concerning the amendment request.
- C. A public hearing on the amendment request shall be conducted by the Planning Commission. The public hearing shall be conducted in accordance with Minnesota Statute, Chapter 394.26.
- D. The Planning Commission shall make a recommendation to the County Board of Commissioners after the proceedings of this public hearing.
- E. The County Board shall consider the recommendation of the Planning Commission.

Article III, Section 4.0 Validity

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

Article III, Section 5.0 Liability

Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any SSTS regulated under this Ordinance by reason of standards, requirements, or inspections authorized hereunder.

Article IV General Requirements

Article IV, Section 1.0 Retroactivity

1.01 All SSTS

Except as explicitly set forth in Article IV, Section 1.02, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

1.02 Existing Permits

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system design whichever is earlier.

1.03 SSTS on Lots Created After January 23, 1996

- A. 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 Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7.

Article IV, Section 2.0 Upgrade, Repair, Replacement, and Abandonment

2.01 Failure to Protect Groundwater

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance.

Type I-V Systems Constructed Prior to January 1, 2007

1. Any system possessing a compliant tank or tanks with less than the equivalent of 30.6 inches, but at least 24 inches of vertical separation between system bottom and saturated soil or bedrock is considered

nonconforming and no system upgrade or replacement is required until the first of one of the following items occurs:

- a. ten years pass from the date on the noncompliance inspection report,
 - b. the addition of a bedroom to one or more structures serviced by the system,
 - c. an increase in water usage as determined by the Department , or
 - d. as determined by a variance decision or conditional use permit.
2. Any system with less than 24 inches of vertical separation between system bottom and saturated soil or bedrock is considered noncompliant and shall be upgraded, repaired, replaced, or abandoned by the owner in accordance with the provisions of this Ordinance within twelve (12) months of receipt of a Notice of Noncompliance.

Type I-V Systems Constructed January 1, 2007 or After

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within twelve (12) months of receipt of a Notice of Noncompliance.

2.02 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 Minnesota Rules, Chapter 7080.1500, Subp. 4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten (10) months of receipt of a Notice of Noncompliance.

An SSTS posing an imminent threat to public health or safety shall be pumped within 24 hours of the determination that the SSTS is an imminent threat and managed as a holding tank if the tank is sealed and compliant until an SSTS upgrade is completed. If the tank is not compliant or able to function as a holding tank, the building(s) serviced by the SSTS shall not be occupied or habitated per Article IV, Section 6.01 of this Ordinance until an SSTS upgrade is completed or unless a Department approved alternative for safe waste disposal is implemented.

2.03 Abandonment

Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rules, Chapter 7080.2500.

Article IV, Section 3.0 SSTS in Floodplains

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall 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 Minnesota Rules, Chapter 7080.2270 and all relevant local requirements are met.

Article IV, Section 4.0 Class V Injection Wells

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

Article IV, Section 5.0 SSTS Practitioner Licensing

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.

Article IV, Section 6.0 Prohibitions

6.01 Occupancy or Use of a Building without a Compliant SSTS

It is unlawful for any person to 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 complies with the provisions of this Ordinance with the following exceptions:

1. Building connected to SSTS that are noncompliant and are imminent health threats may continue to be occupied or used during the time period in which the system is noncompliant until it is upgraded if the property complies with Article IV, Section 2.02 of this Ordinance.
2. Building connected to SSTS that are noncompliant and failing to protect groundwater may continue to be occupied or used during the time period until the system is upgraded not to exceed the applicable upgrade time period allowed in Article IV, Section 2.01 of this Ordinance.

6.02 Sewage Discharge to Ground Surface or Surface Water

It is unlawful for any person to construct, maintain, or use any SSTS regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

6.03 Discharge of Hazardous or Deleterious Materials

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

Article V SSTS Standards

Article V, Section 1.0 Standards Adopted by Reference

1.01 Adoption of Rule by Reference

The County hereby adopts by reference the provisions of Minnesota Rules Chapters 7080-7083 in their entirety except as referenced under Article V, Section 1.02 and except as otherwise expressly modified by this Ordinance.

1.02 Alternative Local Standards for New and Existing SSTS

The County hereby adopts the 2006 version of Minnesota Rules, Chapter 7080 for all new and existing residential Type I, Type II, and Type III SSTS and SSTS that serve any food, beverage, and lodging establishment under 2,500 gallons per day provided the effluent discharge does not exceed the standards in Minnesota Rule 7080.2150, Subp. 3 (K). These aforementioned SSTS types may be designed, permitted, installed, and inspected per either the 2006 version or current version of Minnesota Rules, Chapter 7080.

Article V, Section 2.0 Amendments to the Adopted Standards

2.01 List of More Restrictive Adopted Standards

- A. An inspection pipe of four inches in diameter shall be installed on every drop box, cross pipe used to top-load, or distribution box.
- B. A SSTS shall be upgraded to conform in entirety with all requirements of this Ordinance when additional bedrooms or water-using appliances are added to a building or the SSTS is disconnected from a building being replaced and connected to a new building such as in the case of replacement of mobile homes, modular homes, etc.
- C. The setback distance from an ISTS to the delineated boundary of a Type 4 or Type 5 wetland greater than 10 acres in size shall be one hundred fifty (150) feet and the bottom and sides of trenches and beds shall be in original soils at least three feet above the saturated soil or bedrock. In cases where a property owner can demonstrate through legal description, or plat, or certified survey that there is insufficient depth on a lot to accommodate placement of the drainfield at the 150 foot setback, the Environmental Services Director may vary the setback administratively, but in no case shall the setback be less than 75 feet.
- D. The top of sewage tanks shall be buried no deeper from final grade than the tank manufacturer's maximum designed depth for the tank. This provision is adopted per the County's ability to do so as stated in Minnesota Rules, Chapter 7080.2000, C.
- E. On holding tanks, the maintenance hole of at least 20 inches in least dimension must extend through the cover to above final surface grade rather than follow the requirement in Minnesota Rules, Chapter 7080.2290, C.

- F. SSTS designs that will be used for a self-installed SSTS must include detailed construction/installation specifications and instructions meeting Department policy criteria for such designs.

2.02 Determination of Hydraulic Loading Rate and SSTS Sizing

Table IX entitled “Loading rates for determining bottom absorption area and absorption ratios using detailed soil descriptions” or Table IXa entitled “Loading rates for determining bottom absorption area and absorption ratios using percolation tests” from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) and herein adopted by reference shall be used to size SSTS infiltration areas.

2.03 Compliance Criteria for Existing SSTS

SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

SSTS built after March 31, 1996 or SSTS located in a shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have a three-foot vertical separation or a vertical separation in compliance with 7080.2350, subpart 2, Table XI between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence, but in an area of similar soil.

2.04 Holding Tanks

Holding tanks may be used for structures under the following conditions:

- A. The owner shall install a holding tank in accordance with Minnesota Rules, Chapter 7080.2290.
- B. An alarm device shall be installed that identifies when the holding tank is at 75 percent capacity.
- C. The owner shall maintain a valid contract with a licensed maintainer to pump and dispose of the sewage in accordance with all applicable Minnesota Rules until which time the holding tank is abandoned or the property sold. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statute 115.56, subd. 2, paragraph (b), clause (3).

Failure to meet these requirements shall constitute a violation of this Ordinance and will result in enforcement actions being taken by the County per Article IX of this Ordinance which may include, but not be limited to, banning use/occupancy of the structure(s) served by the holding tank(s).

Article V, Section 3.0 Variances and Appeals

Variances from the provisions of this ordinance and appeals of Environmental Services Department staff administrative decisions made regarding this ordinance will be processed according to the provisions in Section 1103, Variances and Appeals, in the Hubbard County Shoreland Management Ordinance (except in regard to Item 4 of said section, a current compliance inspection report is only required on the SSTS that is the subject of the variance application) and the following two conditions that supersede Section 1103.6 of the SMO:

- A. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance or any violation of any provision of this Ordinance relating to the specific issue of the variance shall result in immediate revocation of the variance.
- B. Any variance granted shall automatically expire if the SSTS is not installed within one year of the date of the variance approval.

3.01 Board of Adjustment

The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings and other standards and criteria per Minnesota Rules, Chapter 7082.0300 Subp. 3. Variance requests to deviate from the design flow determination procedures in Minnesota Rules, Chapter 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 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by MPCA. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

Article VI SSTS Permitting

Article VI, Section 1.0 Permit Required

It is unlawful for any person to construct, install, alter, modify, repair, replace, or operate a SSTS without the appropriate permit and accompanying compliance inspection resulting in the issuance of a certificate of compliance from the Hubbard County Environmental Services Department. The issuing of any permit or variance under the provisions of this Ordinance shall not absolve the applicant of responsibility to obtain any other required permit or inspection.

Article VI, Section 2.0 SSTS Permit

An SSTS 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 Ordinance by appropriately certified and/or licensed practitioner(s).

No permit will be issued to landowners or on property on which there are unresolved violations of this or any other ordinance unless that permit is part of a Department approved plan to resolve the violation(s).

2.01 Activities Requiring an SSTS Permit

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

2.02 Activities Not Requiring an SSTS Permit

An SSTS 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.

2.03 SSTS Permit Required to Obtain Sewered Structure Building Permit

For any property on which an SSTS permit is required in the Shoreland Management Ordinance jurisdictional area, approval and issuance of a valid SSTS permit must be obtained or a valid certificate of compliance for the SSTS, as applicable, must be submitted to the Department before a sewer structure land use permit can be issued by the Department.

2.04 Permit Application Requirements

SSTS Permit applications shall be made on forms provided or approved by the Department and signed by the applicant or an authorized agent. The applications shall include, but is not limited to the information and documents listed in items A through E below.

- A. Name, mailing address, telephone number, (and email address, if available.)
- B. Property identification number and address or other description of property location.
- C. Site evaluation report as described in Minnesota Rules, Chapter 7080.1730.
- D. Design report as described in Minnesota Rules, Chapter 7080.2430.
- E. Management plan as described in Minnesota Rules, Chapter 7082.0600.

2.05 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 Ordinance, the Department shall issue a written permit authorizing construction

of the SSTS as designed. In the event the applicant makes a significant change to the approved application such as a change in the soil dispersal system location, distribution method, or treatment type, the applicant must file an amended application with the Department detailing the changed conditions prior to initiating or continuing construction, modification, or operation. Upon satisfaction that the amended application will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as amended and then construction may commence per the amended and accompanying permit. If the permit application is incomplete or does not meet the requirements of this Ordinance, the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

2.06 Permit Expiration

The SSTS permit is valid for a period of no more than one (1) year 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 substantial 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.

If construction is not completed within the valid permit period, the permit is automatically voided.

2.07 Extensions and Renewals

The Department may grant an extension of the SSTS permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than six (6) months.

2.08 Transferability

An SSTS permit may be transferred to a new owner provided there are no proposed changes to the SSTS design.

2.09 Suspension or Revocation

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

2.10 Posting

The SSTS permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

Article VI, Section 3.0 Operating Permit

3.01 SSTS Requiring an Operating Permit

An Operating Permit shall be required of all owners of new Type IV systems, Type V systems, or MSTS or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to any of these systems until the Department certifies that the system was installed in substantial conformance with the approved plans, receives the final as-builts of the system and a valid Operating Permit is issued to the owner.

3.02 Permit Application Requirements

A. Application for an Operating Permit shall be made on a form provided by the Department including:

- (1) Owner name, mailing address, telephone, (and email address, if available.)
- (2) SSTS Permit reference number and date of issue
- (3) Final as-builts of the SSTS

3.03 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 shall issue an operating permit.

3.04 Operating Permit Terms and Conditions

The operating permit shall include the following:

- A. System operating requirements
- B. Monitoring locations, procedures and recording requirements
- C. Maintenance requirements and schedules
- D. Compliance limits and boundaries
- E. Reporting requirements
- F. Department notification requirements for non-compliant conditions
- G. Disclosure, location and condition of the additional soil treatment and dispersal system site

- H. Descriptions of acceptable and prohibited discharges
- I. Any other information the Department deems necessary

3.05 Permit Expiration and Renewal

- A. Operating permits shall be valid for the specific term stated on the permit as determined by the Department.
- B. An operating permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within ninety (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with Article IV, Section 2.03.
- C. The owner must apply for renewal at least thirty (30) calendar days before the expiration date.
- D. Application shall be made on a form provided by the Department including, but not limited to:
 - (1) Applicant name, mailing address, phone number, (and email address, if available)
 - (2) Reference number of previous owner's operating permit
 - (3) Any and all outstanding compliance monitoring reports as required by the operating permit
 - (4) Evidence of all pumping done during the most recent operating permit period such as paid receipts from a state-licensed maintainer
 - (5) Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the County
 - (6) Any revisions made to the operation and maintenance manual
 - (7) Payment of application review fee as determined by the County

3.06 Amendments to Existing Permits not Allowed

The County may not amend an existing permit to reflect changes in this Ordinance until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.

3.07 Transfers

The operating permit shall not be transferred. A new owner shall apply for an operating permit in accordance with Article IV, Section 3.02 of this Ordinance. 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.

3.08 Suspension or Revocation

- A. The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued or in cases when a monitoring report shows the system is not operating per the terms of the operating permit.
- B. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
- C. 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 Article IV, Section 2.03.
- D. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

3.09 Compliance Monitoring

- A. 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.
- B. 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, address, telephone number, (and email address, if available)
 - (2) Property tax parcel identification number and legal description
 - (3) Operating permit number
 - (4) Average daily flow since last compliance monitoring report
 - (5) Description of type of maintenance and date performed
 - (6) Description of samples taken (if required), analytical laboratory used, and results of analyses
 - (7) Problems noted with the system and actions proposed or taken to correct them
 - (8) Name, signature, license and license number of the licensed professional who performed the work

Article VII Management Plans

Article VII, Section 1.0 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.

Article VII, Section 2.0 Management Plan Requirements

2.01 SSTS Requiring Management Plans

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the SSTS permit application. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted prior to final construction certification.

2.02 Required Contents of a Management Plan

Management plans shall include:

- A. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
- B. Monitoring requirements;
- C. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
- D. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
- E. 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.
- F. Other requirements as determined by the Department.

2.03 Requirements for Systems not Operated under a Management Plan

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

Article VIII Compliance Management

Article VIII, Section 1.0 Compliance Inspection Program

1.01 Department Responsibility

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

- A. SSTS compliance inspections must be performed:
 - (1) To ensure compliance with applicable requirements;
 - (2) For all new SSTS construction or replacement (includes privies);
 - (3) 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 an inspection constitutes a compliance inspection and shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
- C. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building.
- D. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

1.02 New Construction or Replacement

- A. Compliance inspections shall be performed on new or replacement SSTS during construction and installation of a SSTS before it is covered with soil to determine compliance with Minnesota Rules, Chapters 7080 or 7081.
- B. It is the responsibility of the SSTS owner or the owner's agent to notify the Department that an SSTS permit installation inspection is being requested no later than 9:30 a.m. on the workday the SSTS is being installed.
- C. A certificate of compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
- D. The certificate of compliance must 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 ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those Ordinance provisions with which the SSTS does not comply.

- E. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within fifteen (15) calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.
- F. Certificates of compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.
- G. When additional inspections are required, an additional re-inspection fee will be charged.

1.03 Existing Systems

- A. Compliance inspections shall be required when any of the following conditions occur:
 - (1) When a construction permit is required to repair, modify, or upgrade an existing system;
 - (2) Any time there is an addition or alteration to, or an expansion of use of the building being served by an existing SSTS or a new building is being connected to an existing SSTS;
 - (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) When an operating permit is to be renewed;
 - (5) During systematic lake or area-wide SSTS surveys by the Department; and/or
 - (6) At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:
 - (1) Watertightness assessment of all treatment tanks including a leakage report;
 - (2) 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;
 - (3) Sewage backup, surface seepage, or surface discharge including a hydraulic function report.
- C. 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 the Ordinance 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 ordinance provisions with which the SSTS does not comply. An SSTS permit application must be submitted to the Department if the required corrective action is not a minor repair.

- D. If the certificate of compliance is being performed for a permit or variance application where the size of the SSTS tank(s) and drainfield must be known in order to act on the permit or variance application, then the quantity and capacity of tanks and size of the soil dispersal system must be shown on the certificate of compliance.
- E. A copy of the certificate of compliance or notice of noncompliance shall be provided to the property owner and the original certificate of compliance or notice of noncompliance shall be provided to the Department by the licensed inspector conducting the inspection within fifteen (15) days of the date the inspection was performed.
- F. Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of noncompliance.
- G. SSTS found not to be in compliance with Minnesota Rules, Chapter 7080.1500, Subp. 4A or 7081.0080, Subp. 3 must be repaired or replaced within ten months or as directed under Minnesota Statutes, Chapter 145A. SSTS 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.

1.04 Periodically Saturated Soil Disagreements

Resolution of disputes between SSTS certified individuals regarding conflicting compliance inspections, determination of seasonally saturated soils, and other technical issues shall follow Minnesota Rule 7082.0700, Subp. 5.

1.05 Disclaimer

Neither the issuance of permits, certificates of compliance, or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

Article IX Enforcement

Article IX, Section 1.0 Violations

1.01 Cause to Issue a Notice of Violation

Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.

1.02 Interference with Department Access or Administration/Enforcement Prohibited

The Department shall be given access to enter a property without prior notice at any reasonable time to inspect and/or monitor the SSTS for any reason the Department deems necessary. As used in this paragraph, "property" does not include a residence or private building.

No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

1.03 Notice of Violation

The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:

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

1.04 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.

1.05 Administrative Fees and Restoration

Any application for a permit that is made after the work has commenced and which requires a permit or is done in violation of a permit shall be charged an additional administrative fee. In addition, the Department may require correction and/or restoration of the property to its original state should the application for a permit be denied or if the action permitted does not include all or part of the work commenced prior to approval of said permit.

Article IX, Section 2.0 Prosecution

In the event of a violation or threatened violation of this Ordinance, the County may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations and the County Attorney shall have authority to commence such civil action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this Ordinance.

Article X Fees

From time to time, the County Board shall establish fees for activities undertaken by the Department pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the department.

Article XI Interpretation

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

Article XII Severability

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.

Article XIII Abrogation and Greater Restrictions

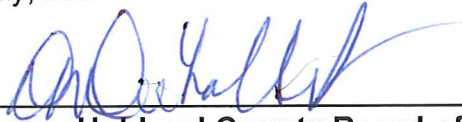
It is not intended by this Ordinance to repeal, abrogate, or impair any other existing County ordinance, easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

Article XIV Ordinance Repealed

The Hubbard County Subsurface Sewage Treatment System Ordinance No. 41 as adopted February 4, 2014 and amended on April 3, 2018 is hereby amended and replaced by this ordinance.

Article XV Adoption

The Hubbard County Subsurface Sewage Treatment System Ordinance, as amended, is hereby adopted by Hubbard County Board of Commissioners on the 4th day of May, 2021.



Chairperson, Hubbard County Board of Commissioners

Attest:



Jeff Cadwell, County Administrator

Effective Date: May 22, 2021



A000408099

HUBBARD COUNTY, MINNESOTA

CERTIFIED, FILED, AND/OR

RECORDED ON

4/1/2020 2:20:49 PM

NICOLE K. LUETH

HUBBARD COUNTY RECORDER

BY LMS _____ Dep PAGES: 14

WELL CERT RCVD _____

MTG REG TAX PD \$

DEED TAX PD \$

TAX EXEMPT _____

HUBBARD COUNTY

ORDINANCE NUMBER 42

AN ORDINANCE RELATING TO LICENSING AND REGULATING THE SALE OF ALCOHOLIC BEVERAGES, INTOXICATING LIQUOR, MALT LIQUOR, 3.2 PERCENT MALT LIQUOR, AND WINE IN THE UNORGANIZED AREAS OF HUBBARD COUNTY, MINNESOTA

Adopted by the Hubbard County Board of Commissioners on the 20th day of January, 2015. Effective April 1, 2015

Amendment No. 1 Adopted by the Hubbard County Board of Commissioners on the 18th day of April, 2017.

Effective July 1, 2017

Amendment No. 2 Adopted by the Hubbard County Board of Commissioners on the 17th day of March, 2020.

Effective April 4, 2020

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HUBBARD COUNTY LIQUOR LICENSE REGULATIONS

AN ORDINANCE RELATING TO LICENSING AND REGULATING THE SALE OF ALCOHOLIC BEVERAGES, INTOXICATING LIQUOR, MALT LIQUOR, 3.2 PERCENT MALT LIQUOR, AND WINE IN THE UNORGANIZED AREAS OF HUBBARD COUNTY, MINNESOTA AND THOSE ESTABLISHMENTS LICENSED BY THE COUNTY BOARD

The Board of Commissioners for the County of Hubbard, State of Minnesota, does hereby ordain and adopt this Ordinance establishing requirements and restrictions regarding the licensing for the sale of alcoholic beverages, beer, intoxicating liquor, malt liquor, 3.2 percent malt liquor, and wine.

SECTION 1 – TITLE

This Ordinance shall be known as, and may be cited and referenced as, the "Hubbard County Liquor License Ordinance;" and, when referenced herein, shall be referenced as "this Ordinance."

SECTION 2 - INCORPORATION

The provisions of Minnesota Statutes Chapter 340A, as amended, relating to the definition of terms; as well as the licensing, consumption, sales, distribution, and consumption of alcoholic beverages, intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine; are adopted, incorporated into, and made a part of this Ordinance as if set out in full herein.

SECTION 3 - INTERPRETATION

The provisions of this Ordinance shall be controlling, unless a provision provided under Minnesota State Statutes, or other ordinance, rule, or regulation imposes more stringent requirements in which case the more stringent requirement shall be controlling. Words and phrases contained within this Ordinance are to be construed according to the rules of grammar and common and ordinary usage. Singular words include the plural, and the plural include the singular.

SECTION 4 - VALIDITY

All sections and provisions of this Ordinance are deemed severable in nature. Should a court of competent jurisdiction declare any section or provision of this Ordinance to be void, invalid, unenforceable or unconstitutional, such finding shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part found to be void, invalid, unenforceable, or unconstitutional.

SECTION 5 - JURISDICTION

This Ordinance shall apply to all unincorporated areas within the County of Hubbard, State of Minnesota.

SECTION 6 - LICENSES

Subsection 1: Requirements

No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, barter, exchange, give away, or keep for sale any alcoholic beverage, intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine without a license to do so as provided in this Ordinance and state law.

Subsection 2: Restrictions

- (1) On-sale licenses for the sale of alcoholic beverages, intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine may be granted in such number and to such establishments as qualify under state liquor laws as restaurants, hotels, clubs or bowling centers. Such license shall only permit consumption on the licensed premises.
- (2) Off-sale licenses for the sale of alcoholic beverage, intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine may be issued only to exclusive liquor stores, and shall only permit off-sales.
- (3) An on-sale license, if issued, authorizes sales on Sundays in conjunction with the serving of food by any restaurant or club located in a township in which Sunday sales has been approved by voters of the Township, and which has facilities for serving at least thirty (30) guests at one time.
- (4) An on-sale wine license may be issued, as authorized under Minnesota Statutes Section 340A.404, Subd. 5(a), only to restaurants meeting the qualifications of Minnesota Statutes Section 340A.101, Subd. 25, and shall permit only the sale of wine for consumption on the licensed premises only in conjunction with the sale of food.
- (5) Pursuant to Minnesota Statutes Section 340A.404, Subd. 5(b), the Hubbard County Board may authorize the on-sale of malt liquor to a holder of an on-sale wine license issued under Minnesota Statutes Section 340A.404, Subd. 5(a) and Section 6, Subsection 2(4) of this Ordinance who is also licensed for on-sale of 3.2 percent malt liquors pursuant to Minnesota Statutes Section 340A.41 1 , and whose gross receipts are at least 60 percent attributable to the sale of food, without an additional license.
- (6) An on-sale wine license may be issued to a licensed bed and breakfast facility as authorized under Minnesota Statutes Section 340A.404, Subd. 5(c), and shall permit the facility to furnish wine only to registered guests.

- (7) 3.2 percent malt liquor on- and off-sale licenses may be issued as authorized under Minnesota Statutes Section 340A.403.
- (8) A club, or a charitable, religious, or nonprofit organization duly incorporated as a nonprofit or religious corporation under the laws of Minnesota and having its registered office and principal place of activity within the County, may qualify for a temporary on-sale 3.2 percent malt liquor license for a period not to exceed five (5) days. Such temporary license shall comply, in all respects, with all other state laws, County Ordinances, this Ordinance, rules, and regulations governing the sale of 3.2 percent malt liquor within the County.
- (9) A caterer's permit may be issued pursuant to the restrictions and requirements set forth at Minnesota Statutes Section 340A.404, Subdivision 12, as amended, to a restaurant that holds an on-sale intoxicating liquor license. The holder of a caterer's license may sell intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine as an incidental part of food service that serves prepared meals at a location other than the premises for which the on-sale intoxicating liquor license is granted. The caterer's license is auxiliary to the primary on-sale license held by the licensee. Additionally, the holder of a caterer's permit must conduct all on-sales in full compliance with all applicable provisions of this Ordinance and all other state statutes, laws, rule and regulations.

SECTION 7 - LICENSE APPLICATION

Subsection 1: Application requirements

- (1) The Hubbard County Auditor-Treasurer is designated as the License Authority for all licenses applied for, issued, or renewed under this Ordinance.
- (2) The application for either on- or off-sale of alcoholic beverages, intoxicating liquor, malt liquor, wine, and/or 3.2 percent malt liquor shall be obtained from the License Authority, and shall consist of an Application to Sell, License Application Information Form, Minnesota Worker's Compensation Form, and certificate of liability insurance required pursuant to Section 1 1 of this Ordinance. Failure to provide any required form or information is a basis for automatic denial of the license application.
- (3) At the time of filing an application for either an initial or renewed license the applicant shall submit the completed application, all required forms, a certificate of liability insurance, and shall pay an investigation background fee and all other applicable fees as set by the County Board. All fees are considered the minimum amounts necessary to reimburse the County for costs incurred in processing the application and investigating the applicant and the proposed premises and are, therefore, non-refundable.
- (4) Every applicant, at the time of filing an application for an initial license, shall also submit a drawing of the property on which the premises is located, showing and

identifying all adjacent streets, buildings and residences, parking, road accesses, and entry and exit into the building; as well as a floor plan of the interior of the premise and any outdoor areas in which the applicant intends to serve alcoholic beverages, intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine. No outdoor on-sales or service is permitted unless the applicant clearly indicates on an application for a new or renewed license of the intent to conduct outdoor on-sales.

- (5) An application shall not be considered submitted unless completed in full; all required forms, attachments and/or additional information is attached or otherwise provided in a form acceptable to the licensing authority; the certificate or binder for the required liability insurance is provided; and all required fees are paid in full.
- (6) The applicant shall also sign a verification, under oath, attesting that all information set forth on the application is true and correct. No person shall knowingly make a false statement in an application. Any knowing false statement or information shall be grounds for rejection of an initial application, rejection of an application for license renewal, revocation of an existing license, and/or criminal prosecution.
- (7) A completed application for either an initial or a renewed license must be presented at least 60 days prior to the requested effective date or, for license renewal applications, the expiration date of the current license. Late renewals applications for existing licenses shall pay an additional late fee as determined by the County Board, which must accompany the completed application.
- (8) The applicant must obtain the written comments of the County Sheriff, and the County Attorney with regards to the application. This requirement pertains to both original and renewal applications. The County Sheriff's comments should include the applicant's performance with regards to past alcohol sales compliance checks.
- (9) The applicant for either an initial or renewed license in a Town that exercises powers under 368.01 M.S.A. must first obtain the approval from the Town Board in which the proposed license premises is to be located. The License Authority, if requested, will forward the statements of the County Sheriff, and the County Attorney to the Township Board in advance of their consideration of the application.

Subsection 2: Consideration

- (1) All applications for liquor licenses will be considered by the County Board. The County Board shall decide whether to deny or grant an application. The County Board may, as a condition of granting a license application, impose reasonable restrictions on the nature and/or operation of the business. These restrictions include, without limitation, reasonable restrictions on conducting on-sales in outdoor areas adjacent to the licensed premise including parking, lighting, noise abatement, restroom facilities, hours of operation, and whether amplified entertainment is permitted.

- (2) The County Board must consider an application within sixty (60) days after a completed application is considered submitted pursuant to Section 7, Subsection 1 (4) of this Ordinance. The License Authority may extend this period by an additional sixty (60) days provided the applicant is notified, in writing, of the reason for the extension. The applicant may also consent to an extension of this period, in writing, for any period as agreed to by the applicant and the License Authority.
- (3) The State of Minnesota may issue the license if the application is approved by the County Board.
- (4) The License Authority shall notify the Minnesota Commissioner of Public Safety when a 3.2 percent malt liquor or intoxicating liquor license application is approved.

Subsection 3: Criterion

In deciding whether to grant a particular license, the County Board shall consider all relevant factors bearing on both the applicant and the premises including but not limited to:

- (1) The applicant's characteristics, including but not limited to financial integrity, including but not limited to the ability to provide the required liability insurance; responsibility; moral character, including but not limited to criminal history; and reputation.
- (2) The written comments of the Town Board if that Board exercises powers under 368.01 M.S.A., the County Sheriff, the County Zoning Administrator, and the County Attorney.
- (3) Past record of compliance, including sale compliance checks, if the application is for a license renewal;
- (4) Compatibility of the premises with surrounding land uses, including but not limited to whether the establishment is a prohibited, conditional, or permitted use under current zoning restrictions.
- (5) Characteristics of the proposed licensed premises, including but not limited to size, setbacks, parking, screening, lighting, security, garbage removal, access, and rest room facilities.
- (6) The County Board may deny a license for a premises in an area where such a land use is prohibited by zoning ordinances or other land use controls, except licenses may be issued to restaurants in areas which were restricted against commercial uses after the establishment of the restaurant.

- (7) The County Board may deny any application on the sole basis the applicant failed to comply with any provision of this Ordinance, State statutes, or other applicable ordinance, law, rule or regulation in the application process.
- (8) No license shall be granted for a building within 1,000 feet of any school or within 1,000 feet of any church.

Subsection 4: Delinquent taxes

No on- or off-sale license shall be granted or renewed for any premises on which federal, state, County, or local taxes, assessments, or other financial claims of any kind are delinquent and unpaid regardless whether the license applicant is the owner or lessee of the premises.

SECTION 8 - LICENSE PERIOD

All licenses are issued for a period not to exceed one (1) year. A license may be issued subject to a shorter expiration date if issued for the purpose of coordinating a common expiration date of multiple licenses, in which case a pro rata license fee shall be assessed. The license period for 3.2 percent malt liquor licenses shall be January 1 through December 31 of the same calendar year, and for all alcoholic beverages, intoxicating liquor, malt liquor and wine shall be January 1 through December 31 of the same calendar year.

SECTION 9 - FEES

Subsection 1: Amount

The fees for licenses shall be established by resolution of the County Board pursuant to Minnesota Statutes Section 340A.408.

Subsection 2: Fee refund

A monthly pro rata share of the annual license fee for an on-sale intoxicating liquor license, less \$500.00, may be refunded to the licensee or to the licensee's estate, if: (1) the business ceases to operate because of destruction or damage; (2) the licensee dies; (3) the business ceases to be lawful for a reason other than a license revocation, or (4) the licensee ceases to carry on the licensed business under the license.

SECTION 10 - TRANSFERABILITY

Any license issued under this Ordinance is granted solely to the applicant and the business entity named in the application and for the premises named in the license application. No license of any sort granted pursuant to this Ordinance is transferable to any other person or premises. If a change of ownership or control of any licensed premises occurs, whether pursuant to sale, transfer, assignment, or otherwise, the new

owner must complete a new application subject to approval pursuant to this Ordinance. A change of ownership or control includes, but is not limited to:

- (1): The sale of all or substantially all of the company assets;
- (2): Sale or acquisition of forty (40) percent or more of the controlling interest (voting) stock if the company stock is publicly traded;
- (3): Sale of fifty-one (51) percent of the voting stock if a non-publicly traded stock or closely held corporation;
- (4): Execution of a management agreement; or
- (5): The change of any officer or majority stockholder if the company is a closely-held corporation.

Applications for licensing when there is a change of ownership of an existing licensed premise shall be assessed a pro rata share of the annual license fee.

SECTION 11 – INSURANCE

Subsection 1: Requirement

- (1) Prior to the issuance or renewal of any license for the on- or off-sale sale of alcoholic beverage, intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine, the applicant shall file with the County Auditor-Treasurer a certificate for a liability insurance policy that meets all requirements as set forth in Minnesota Statutes Section 340A.409.
- (2) For outdoor on-sale, the license holder's liability insurance shall specifically include the outdoor area where sales will take place.
- (3) A certificate of liability insurance is not required for:
 - (a). A holder of a temporary license issued pursuant to Section 6, Subsection 2(8) of this Ordinance if total sales during the preceding year were less than \$25,000.00 for on-sale and less than \$50,000.00 for off-sale; or
 - (b). A holder of a temporary wine license.

Subsection 2: Lapse

Lapse, cancellation, or the failure to renew a policy of the insurance required pursuant to Subsection 1 of this Section shall result in an immediate suspension of any license issued pursuant to this Ordinance, without further action of the County Board.

SECTION 12 - HOURS

Subsection 1: Hours of sale

Sale of all on-sale alcoholic beverages, intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine are prohibited between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, unless the applicant was granted a specific permit or license authorizing sales until 2:00 a.m. on designated days. Sunday on-sale hours of sale shall be between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays but only in conjunction with the sale of food and if permitted by the Township. Sale of off-sale alcoholic beverages, intoxicating liquor, malt liquor, 3.2 percent malt liquor or wine shall be between the hours of 8:00 a.m. and 10:00 p.m. Monday through Saturday and on Sunday between the hours of 11:00 a.m. and 6:00 p.m. and as provided by Minnesota Statute S340A.

Subsection 2: Presence on premises

It is unlawful for any person to enter or remain on the licensed premises 30 minutes after the time authorized for sale expires. This Subsection does not apply to law enforcement, the licensee, or any employee or contractor of the licensee who is actually working or otherwise preparing to open or close the licensed premises.

Subsection 3: Consumption on premises

It is unlawful for any person, whether patron, employee, owner, contractor, or other, to consume any alcoholic beverage, intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine on a licensed premises after the time authorized for sale expires.

SECTION 13 - GENERAL

- (1) No alcoholic beverage, intoxicating liquor, malt liquor, 3.2 percent malt liquor, or wine shall be consumed by any person in the outdoor areas adjacent to any licensed premises at any time unless outdoor on-sales was included in the permit application.
- (2) Any outdoor area in which the licensee shall conduct on-sales shall be enclosed by a fence or other structure sufficient to control access to and from the area of sale.
- (3) No licensee shall knowingly cause or permit any lewd conduct on the premises including, but not limited to, public nudity, strip tease act, exotic dancing, or any type or form of sexually-orientated activity or entertainment.

SECTION 14 - ENFORCEMENT

Subsection 1: Penalty

Any person, firm, organization, partnership or corporation who violates any provision of this Ordinance, fails to comply with any provision of this Ordinance, or who makes a

knowing false statement in any application hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished according to law. A separate offense shall be deemed committed upon each day during or on which any violation occurs or continues.

Subsection 2: Enforcement

The Hubbard County Sheriff's Department and/or their designees, and/or any state or federal law enforcement or administrative agency, will conduct inspections as needed to ensure compliance with the terms of this Ordinance, state law, state administrative rules, federal law, other regulations, as well as the terms and conditions of individual licenses.

Subsection 3: Administrative Penalties

The Licensing Authority or their designee may issue the following administrative penalties for violations of this ordinance.

14.3.1 First violation. Any Licensee found to have violated this ordinance shall be charged an administrative penalty of five hundred dollars (\$500.00); the sum of \$250.00 will be waived if all the licensee's employees attend Alcohol Awareness Training within 3 months of the violation.

14.3.2 Second violation. Any Licensee found to have violated this ordinance two (2) times within a twenty-four (24) month period will be subject to a \$750.00 administrative penalty. The sum of \$250.00 will be waived if all the licensee's employees attend Alcohol Awareness Training within 3 months of the violation.

14.3.3 Third violation. Any Licensee found to have violated this ordinance three (3) times within a twenty-four month period will be subject to a one thousand dollar (\$1000.00) administrative penalty. In addition, a two day, suspension of the liquor license shall be imposed.

14.3.4 Fourth violation. Any Licensee found to have violated this ordinance four (4) times within a twenty-four month period will be subject to a one thousand five hundred dollar (\$1500.00) administrative penalty. In addition, a four day, suspension of the liquor license shall be imposed.

14.3.5 Fifth violation. Any Licensee found to have violated this ordinance five (5) times within a twenty-four (24) month period shall have their liquor license revoked.

14.3-6 A Licensee may appeal the imposition of an administrative penalty under this ordinance to the Hubbard County Board or its authorized representative, pursuant to sections 14.57 to 14.69 of the Minnesota Administrative Procedures Act.

14.3.7 A Licensee may appeal a suspension or revocation of a license to the Hubbard County Board pursuant to sections 14.57 to 14.69 of the Minnesota Administrative Procedures act. No suspension or revocation shall take effect until

the time for appeal has expired or, if an appeal is brought, until the County Board has rendered a decision.

An authorized representative under this section may take testimony, make evidentiary findings, and make recommendations to the Board.

SECTION 15 - LICENSE SUSPENSION OR REVOCATION

The County Board may revoke or suspend any license issued hereunder for violation of this Ordinance and the statutes incorporated hereunder. Prior to any revocation or suspension, the license holder shall be given at least 10 days written notice, by mail sent to the license holder at the address provided in the license application, or personal service, of the charges against the license holder, and a hearing shall be conducted before the County Board or the Board's designee. The licensee and the License Authority may be represented by counsel, and both may submit all relevant evidence or arguments. The County Board or the Board's designee shall make written findings within a reasonable time after the close of said hearing. The licensee may appeal the written decision and/or resolution of the County Board or its designee to the District Court within 30 days of the date the written decision is served upon the licensee at the address provided in the license application.

SECTION 16 - LICENSE DENIALS

Any person denied either an original or renewed license may appeal to the County Board or its designee by serving, within 10 days of receiving written notice of such denial, a written notice of appeal upon the License Authority. The Board, or its designee shall then hear the appeal within 30 days after the license Authority is served with the notice of appeal. The licensee and the License Authority may be represented by counsel, and both may submit all relevant evidence or arguments. The County Board or its authorized representative shall make written findings within a reasonable time after the close of said hearing. The licensee may appeal the written decision and/or resolution of the County Board or its designee to the District Court within 30 days of the date the written decision is served upon the licensee

SECTION 17 - SALE OF KEG BEER


For each and every retail sale of a keg of beer, the licensee selling such keg shall require valid identification of the person to whom the keg is sold, record the date and time of such sale, and record the serial number of each keg. The Licensee shall maintain a log that lists the sale of each and every keg of beer to the public. Such log shall be made available to any law enforcement officer upon request.

SECTION 18 - DATE OF EFFECT

This Amendment No. 2 to Ordinance 42, enacted by the Hubbard County Board of Commissioners on March 17, 2020, shall be in full force and effect from and after its passage, approval and publication, as provided by law. The effective date of the Ordinance shall be April 4, 2020.

**BOARD OF COUNTY
COMMISSIONERS**
Hubbard County, Minnesota

Attest:


Eric Nerness
Coordinator

By:


Charlene Christenson
Board Chair



Buffer Ordinance

Hubbard County

County Ordinance No. 43

Adopted: March 6, 2018

Effective: March 28, 2018

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An ordinance providing for the protection and enhancement of natural resources in Hubbard County through the establishment of vegetation buffers along public waters and public drainage ditches with particular attention to locations where agricultural uses are occurring.

The County Board of Commissioners does hereby ordain:

1.0 Statutory Authorization and Policy

- 1.1 **Statutory Authorization.** This buffer ordinance is adopted pursuant to the authorization and policies contained in Minn. Stat. §103F.48, the Buffer Law, and the County planning and zoning enabling legislation in Minn. Stat. chapter 394.
- 1.2 **Purpose and Intent.** It is the purpose and intent of the County to:
 - (a) Provide for riparian vegetated buffers and water quality practices to achieve the following purposes:
 - (1) Protect state water resources from erosion and runoff pollution;
 - (2) Stabilize soils, shores and banks; and
 - (3) Protect or provide riparian corridors.
 - (b) Coordinate the implementation and enforcement of the water resources riparian protection requirements of Minn. Stat. §103F.48 with the shoreland management rules and ordinances adopted under the authority of Minn. Stat. §103F.201 to 103F.227 and the management of public drainage systems established under Minn. Stat. chapter 103E where applicable; and
 - (c) Provide efficient and effective direction to landowners and protection of surface water quality and related land resources.

2.0 Definitions and General Provisions

- 2.1 **Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.
 - 2.1.1 **APO** - means the administrative penalty order issued pursuant to Minn. Stat. §103F.48, subd. 7 and Minn. Stat. §103B.101, subd. 12a.
 - 2.1.2 **Buffer** - has the meaning provided in Minn. Stat. §103F.48, subd. 1(c).
 - 2.1.3 **Buffer Protection Map** - has the meaning provided in Minn. Stat. §103F.48, subd. 1(d) and which are available on the Department of Natural Resources website.
 - 2.1.4 **BWSR** - means the Board of Water and Soil Resources.
 - 2.1.5 **County** – means Hubbard County, Minnesota.
 - 2.1.6 **Cultivation Farming** - means farming practices that disturb root or soil structure or that impair the viability of perennial vegetation due to cutting or harvesting near the soil surface.
 - 2.1.7 **Drainage Authority** - has the meaning provided in Minn. Stat. §103E.005, subd. 9.
 - 2.1.8 **Landowner** - means the holder of the fee title, the holder’s agents or assigns, any lessee, licensee, or operator of the real property and includes all land occupiers as defined by Minn. Stat. §103F.401, subd. 7 or any other party conducting farming activities on or exercising control over the real property.

2.1.9 **Parcel** - means a unit of real property that has been given a tax identification number maintained by the County.

2.1.10 **Public Drainage System** - has the meaning given to “drainage system” in Minn. Stat. §103E.005, subd. 12.

2.1.11 **Local Water Management Authority** - has the meaning provided in Minn. Stat. §103F.48, Subd. 1(g).

2.1.12 **Normal Water Level** - means the level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.

2.1.13 **SWCD** - means Hubbard County Soil and Water Conservation District.

2.1.14 **Validation of Compliance** – a form completed by the SWCD at the request of the landowner that certifies to the landowner and other responsible government units that the land required to be buffered meets the standards of this ordinance.

2.2 **Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

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

3.0 Jurisdiction

3.1 **Jurisdiction.** The provisions of this ordinance apply to all waters, shown on the buffer protection map, excluding public drainage systems for which the County is not the drainage authority under Minn. Stat. chapter 103E.

4.0 Buffer Requirements

4.1 **Buffer Width.** Except as provided in subsection 4.4 and 4.5, a landowner owning property adjacent to a water body identified on the buffer protection map must establish and maintain a buffer area as follows:

(a) For waters shown on the buffer protection map requiring a fifty (50) foot width buffer, the buffer width will be fifty (50) foot average and thirty (30) foot minimum width as provided in Minn. Stat. §103F.48, subd. 3, unless a greater width is required in Sections 901 and 906 of the Hubbard County Shoreland Management Ordinance, as measured according to subsection 4.2; and

(b) For waters shown on the buffer protection map requiring a sixteen and a half (16.5) foot minimum width buffer, the buffer width will be sixteen and a half (16.5) feet as provided in Minn. Stat. §103F.48, subd. 3, unless a greater width is required in Sections 901 and 906 of the Hubbard County Shoreland Management Ordinance, as measured according to subsection 4.2.

4.2 **Measurement.**

(a) The width of any required buffer on land adjacent to a water requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer or a greater width per Section 901 and 906 of the Hubbard County Shoreland Management Ordinance shall be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level as provided in Minn. Stat. §103F.48, subd. 3(c).

(b) The width of any required buffer on land adjacent to a public drainage system shall be measured in the same manner as for measuring the vegetated grass strip under Minn. Stat. §103E.021, subd. 1 as provided in Minn. Stat. §103F.48, subd. 3(c).

- 4.3 **Use of Buffer Area.** Except as provided in Sections 4.4 and 4.5, a buffer as defined in this ordinance may not be put to any use, included but not limited to cultivation farming, which would remove or prevent the permanent growth of perennial vegetation.
- 4.4 **Exemptions.** The requirement of Section 4.1 does not apply to land that is exempted from the water resources riparian protection requirements under Minn. Stat. §103F.48, subd. 5.
- 4.5. **Alternative Practices.** As provided in Minn. Stat. §103F.48, subd. 3(b) an owner of land that is used for cultivation farming may demonstrate compliance with subsection 4.1 by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative, and management practice(s) which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in Sections 4.1 to 4.3. The adequacy of any alternative practice allowed under this section shall be based on:
- (a) the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
 - (b) common alternative practices adopted and published by BWSR;
 - (c) practices based on local conditions approved by the SWCD that are consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or
 - (d) other practices adopted by BWSR.
- 4.6 **Nonconformity.** Where the provisions of any statute, other ordinance or regulation imposes greater restrictions than this ordinance, the provisions of such shall be controlling. The continuation of nonconformities provided for by Minn. Stat. §394 and §462 shall not apply to compliance with this ordinance and Minn. Stat. §103F.48.

5.0 Compliance Determinations

- 5.1 **Compliance Determinations.** Compliance with the buffer requirements set forth in Section 4 will be determined by the SWCD on a parcel by parcel basis. The compliance status of each bank, or edge of a waterbody on an individual parcel will be determined independently.
- At any time during the compliance determination process, the landowner may provide documentation of compliance to the SWCD and County.
- If the SWCD determines a landowner's parcel is not in compliance with this ordinance, the SWCD must provide written notification of such to the landowner, the County, and BWSR. The SWCD may also issue a Validation of Compliance if applicable or requested by the landowner.
- 5.2 **Corrective Action Notice.** On receipt of an SWCD Notification of Noncompliance, the County will issue the landowner and/or any other party deemed responsible as having control over that part of the property subject to Section 4.0 a Corrective Action Notice that will:
- (a) include a list of corrective actions needed to come into compliance with the requirements of Minn. Stat. §103F.48;
 - (b) provide a timeline for complying with the corrective action notice;

The County may send the landowner a combined Corrective Action Notice and APO as provided in section 6.2 so long as the combined Notice/APO includes all the required elements of both.

The County may deliver or transmit the corrective action notice by any means reasonably determined to reach the landowner and any other noticed party. Failure of actual receipt of a corrective action notice

by a noticed party shall not be deemed a defense in an enforcement proceeding under Section 6.0. The County shall also send a copy of the Notice to the BWSR.

- 5.2.1 At any time after receipt of a corrective action notice, the landowner may provide documentation of compliance to the County and SWCD. In addition, the landowner may supply information to the County and SWCD in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, the County may make a written modification to the Corrective Action Notice. Any such modification of a compliance determination will be served on the landowner and any other noticed party in the manner provided for in Section 5.2 and provided to the BWSR.
- 5.2.2 The SWCD shall monitor the parcel and determine if the noncompliance has been fully corrected, and shall notify the County, landowner, and any other noticed party of the determination. The SWCD may, after an evaluation of the evidence documenting compliance submitted by the landowner or upon request by a landowner or landowner's authorized agent, issue a written Validation of Compliance. Upon receipt by the County of a written Validation of Compliance determination issued by the SWCD, the Corrective Action Notice will be deemed satisfied for the purpose of Section 6.0, and the subject property will not be subject to enforcement under that Section.
- 5.2.3 A Notice of Noncompliance is not considered a final decision subject to appeal to the BWSR.

6.0 Enforcement

- 6.1 **Failure to Comply with a Corrective Action Notice Issued Under Section 5.** The County may, at its own discretion, elect to pursue the failure to comply with a corrective action notice either criminally or through an administrative penalty order (APO) as set forth herein.
 - (a) Failure to comply with a corrective action notice issued under Section 5 constitutes a misdemeanor and shall be punishable as defined by law.
 - (b) The County may issue an APO as provided for in Minn. Stat. §§103F.48, subd. 7(b) and (c) and 103B.101, subdivision 12a to a landowner who has failed to take the corrective action set forth in the corrective action notice. For the APO to be effective, it must be served on the landowner together with a copy of the corrective action notice or alternatively the County may serve the landowner with a combined Corrective Action Notice and APO so long as the combined Notice/APO includes all the elements of both. Service is effective either by personal service or by depositing the documents set forth herein in the U.S. Mail. Any penalty assessed in the APO shall continue to accrue until the violation is corrected as provided in the Corrective Action Notice and APO.
- 6.2 **Administrative Penalty Order (APO).**
 - (a) **Initial Violation.** The penalty for a landowner on a single parcel that has not previously been the subject of an APO issued by the County shall be:
 - i. \$0 for 11 months after issuance of the Corrective Action Notice;
 - ii. \$50 - \$200 per parcel per month for the first six (6) months (180 days) following the time period in i; and
 - iii. \$200 - \$500 per parcel per month after six (6) months (180 days) following the time period in ii.
 - (b) **Repeat Violation.** The penalty for a landowner on a single parcel that has previously been the subject of an APO issued by the County shall be:
 - i. \$50 - \$200 per parcel per day for 180 days after issuance of the Corrective Action Notice; and
 - ii. \$200 - \$500 per parcel per day for after 180 days following the time period in i.

(c) **Ongoing Penalty Assessment.** Any penalty assessed under this section shall continue until the corrective action notice has been satisfied.

6.2.1 **APO.** To be valid the APO shall include, at a minimum:

- i. The facts constituting the violation of the riparian protection and water quality practices requirements set forth in this Section 4.0 of this ordinance or Minn. Stat. §103F.48 ;
- ii. The specific statute and/or ordinance section(s) that has/have been violated;
- iii. A written description of prior efforts to work with the landowner to resolve the violation;
- iv. The amount of the penalty to be imposed;
- v. The date the penalty will begin to accrue;
- vi. The date that payment of the penalty is due;
- vii. The date by which all or part of the penalty may be forgiven if the landowner has/have complied with the Corrective Action Notice; and
- viii. A statement of the landowner's right to appeal the APO.

6.2.2 All or part of the penalty may be forgiven based on the correction of the noncompliance by the date specified in the APO by the landowner as provided in Minn. Stat. §103F.48, subd. 7(d).

6.2.3 A copy of the APO will be sent to the SWCD and BWSR.

6.2.4 An APO issued under this section may be appealed to the BWSR within 30 days of receipt by the landowner in accordance with the requirements set for the in Minn. Stat. §103F.48, subd. 9. Any APO that is not appealed within the 30 day period shall be deemed final.

6.3 Administrative Penalty Order Procedures

6.3.1 Statute of Limitations. Any criminal enforcement action undertaken pursuant to Section 6.1 of this ordinance must be undertaken within two years after the alleged violation was discovered or reasonably should have been discovered by the County. According to Minn. Stat. §541.07, the County has two years in which to commence an APO action after the date the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the landowner involved.

6.3.2 Compliance Verification. Once a landowner has submitted written evidence of correction of the violation set forth in the notice of compliance, compliance must be verified. The County will:

- i. Review and evaluate all information related to the APO to determine if the violation has been corrected;
- ii. Verify compliance by site visit, re-inspection, examination of documentation, or other means as may be reasonable under the facts of the case; and
- iii. Document compliance verification.

The County may consult with the SWCD when conducting a compliance verification.

6.3.3 Right to Appeal. Within 30 days after receipt of the APO, a landowner may appeal the terms and conditions of an APO issued by a County to BWSR as provided in Minn. Stat. §103F.48, subd. 9. The appeal must be in writing and must include a copy of the APO that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally, by U.S. mail, or electronically, to the Executive Director of BWSR.

6.3.4 Penalty Due. Unless the landowner appeals the APO as provided in Section 6.3.3, the penalty specified in the APO becomes immediately due and payable to the County as set forth in the APO. If, however, the landowner submits written documentation that the violation has been corrected prior to the time the penalty becomes due and payable, the County will verify compliance and adjust the penalty to an amount the landowner would have owed had the penalty been paid on the date the landowner submitted written documentation of compliance. Written documentation of compliance may include a written validation of compliance issued by the SWCD.

However, if the County determines the violation was not fully corrected, the County will notify the landowner by issuing a written letter of determination and depositing it in the U.S. Mail. Any determination sent by U.S. Mail shall be deemed received three business days after the letter of determination has been deposited in the U.S. Mail. The landowner shall have an additional 20 days after receipt of the letter of determination to pay the penalty or the time period specified in the APO as issued, whichever is later. The penalty will continue to accrue until the violation is corrected as provided in the Corrective Action Notice and APO.

6.3.5 Referral for Collection of Penalty. All penalties and interest assessed under an APO must be paid by the landowner within the time specified in this section. All payments shall be made payable to the County. Any penalty or interest not received in the specified time may be collected by the County using any lawful means.

6.4 Interference with County Access or Administration/Enforcement Prohibited.

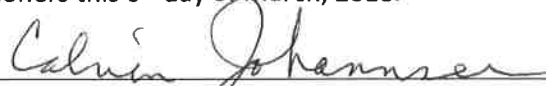
All employees of the Hubbard County Environmental Services Department, members of the County Board of Commissioners, and employees of the Hubbard County SWCD in the performance of their duties shall have free access to all land included within the jurisdiction of this Ordinance. Access to the land shall be during normal business hours unless an emergency exists.

Pursuant to Minn. Stat. 103F.421, Subd. 2(b), no person shall hinder or otherwise interfere with the County's and SWCD's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the County and SWCD shall be deemed a separate and distinct offense under this Ordinance. A violation under this subsection constitutes a misdemeanor and shall be punishable as defined by law.

7.0 Effective Date

This Ordinance shall be in full force and effect on March 28, 2018 after its passage and publication according to law.

Adopted by the Hubbard County Board of Commissioners this 6th day of March, 2018.



Calvin Johannsen, Chairperson
Hubbard County Board of Commissioners

Attest:



Debbie Thompson, County Coordinator

Published in the Northwoods Press this 28th day of March, 2018.



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**An Ordinance for the Control of Nuisance, Potentially Dangerous,
and Dangerous Animals in Hubbard County, Minnesota
Hubbard County Ordinance No. 44, Amendment 1**

Purpose:

In order to provide for the health and safety of the people of Hubbard County, and in order to provide for the regulation and protection of dangerous animals, potentially dangerous animals, and nuisance animals, the Board of Commissioners of Hubbard County, State of Minnesota, does hereby ordain as follows:

Scope and Legal Authority:

Minnesota Statutes 145A.05, Subdivision 2, Animal Control, enables County Boards to adopt ordinances to issue licenses or otherwise regulate the keeping of animals, to restrain animals from running at large, to authorize the impounding and sale or summary destruction of animals and to establish pounds.

Subdivision 1. Definitions:

- (a) For purposes of this Ordinance, “animal” shall mean any mammal, reptile, amphibian, fish, bird, or other member commonly accepted as part of the animal kingdom.
- (b) For the purposes of this Ordinance, a “nuisance animal” is an animal in Hubbard County which:
 - i. Habitually enters onto private property and molests or annoys any person while away from the property of its owner;
 - ii. Enters onto public or private property and chases deer;
 - iii. Habitually and chronically barks, howls, or whines for extended periods;
 - iv. Aggressively approaches or attacks a person, the person’s domestic animal(s), or the person’s livestock animal(s) while the nuisance animal is away from the property of its owner;
 - v. Aggressively approaches or attacks a person, causing fear of immediate harm to the person or the person’s property, when the person’s conduct is peaceful and legal within their right, such as but not limited to, walking along a public right of way;
 - vi. As an individual animal or part of a group or herd of animals that enters onto public roadways, road right of ways, parks or public beaches, school grounds, or other public property creating a risk of injury or property damage.

- (c) For the purpose of this Ordinance, a “dangerous animal” is an animal in Hubbard County which:
- i. Without provocation caused substantial bodily harm to any person on public or private property;
 - ii. Kills a domestic animal or livestock animal without provocation while off the owner’s property;
 - iii. Has been found to be potentially dangerous and/or the owner has personal knowledge of the same, and the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals; or
 - iv. Has fresh wounds, scarring, or is observed in a fight, or has other indications which to a reasonable person evidences that the animal has been or will be used, trained, or encouraged to fight with another animal; or whose owner has in custody or possession any training apparatus, paraphernalia, or drugs used to prepare such animal to be fought with another animal.
- (d) For purposes of this Ordinance, a “potentially dangerous animal” is an animal in Hubbard County which:
- i. When unprovoked, bites a human, domestic animal, or livestock animal on public or private property;
 - ii. When unprovoked, chased or approached a person upon a street, sidewalk, or any public or private property, other than the animal owner’s property, in an apparent attitude of attack; or
 - iii. Has a known history or propensity, tendency, or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- (e) For purposes of this Ordinance, “owner” means a person who owns, harbors, feeds, boards, or keeps an animal herein regulated.
- (f) For purposes of this Ordinance, “domestic animal” shall mean those animals commonly accepted as domesticated household pets, including dogs and cats.
- (g) For purposes of this Ordinance, “livestock animal” shall mean horses, cattle, pigs, sheep, chickens, and other useful animals kept or raised on a farm or ranch.
- (h) For purposes of this Ordinance, “provocation” shall mean an act that an adult could reasonably expect may cause an animal to attack or bite.

Subdivision 2. General Provisions:

- (a) The owner of any animal present in Hubbard County shall, at all times, prevent their animal from becoming a nuisance animal as defined in this Ordinance.
- (b) An owner who fails to prevent their animal from becoming a nuisance animal as defined by this Ordinance is subject to the penalties prescribed in Subdivision 6.
- (c) An animal’s presence alone, on another’s private property, does not constitute a nuisance.
- (d) It is an affirmative defense to a violation of this Ordinance if: (i) the nuisance animal consists of horses, cattle, or other livestock; (ii) the animal’s owner is actively engaged in the practice of farming; and (iii) the owner takes immediate, adequate, and appropriate steps to correct the condition leading to the nuisance animal(s). If an owner meets the requirements of this affirmative defense the owner shall not be subject to a penalty under Subdivision 6.

Subdivision 3: Potentially Dangerous Animal Designation:

- (a) The Animal Control Officer, or his/her designee, shall designate any animal as potentially dangerous upon receiving evidence that the animal meets any of the criteria set forth in Subdivision 1(d) of this Ordinance.
- (b) When an animal is declared potentially dangerous the designating officer shall cause the owner(s) of the potentially dangerous animal to be notified in writing that such animal is potentially dangerous.
 - a. The designating officer shall notify the owner(s) in writing or in person that the animal has been determined to be potentially dangerous. The notice shall state the date, time, place, and circumstances of the incident, a description of the animal, and shall advise the owner(s) that they have fourteen (14) days to appeal the determination.

Subdivision 4: Dangerous Animal Designation:

- (a) The Animal Control Officer, or his/her designee, shall designate any animal as a dangerous animal upon receiving evidence that the animal meets one or more of the criteria set forth in Subdivision 1(c).
- (b) When an animal is declared dangerous the designating officer shall cause the owner(s) of the dangerous animal to be notified in writing that such animal is dangerous.
 - a. The designating officer shall notify the owner(s) in writing or in person that the animal has been determined to be dangerous and that the animal is to be seized and destroyed unless the owner(s) complies with conditions as set forth in this subdivision.
 - b. The notice shall include a description of the animal, state the dates, times, places, and facts of the incident which form the basis for the determination, and that the owner(s) have fourteen (14) days to appeal the determination.
- (c) An animal declared dangerous must be destroyed in a proper and humane manner and the owner shall pay the associated costs unless:
 - a. The owner provides and maintains a proper enclosure for the dangerous animal;
 - b. The owner posts, at the front and rear of their premises, clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statute 347.51;
 - c. The owner provides and shows proof annually of public liability insurance paid in full in the minimum amount of three hundred thousand dollars (\$300,000). The owner shall have fourteen (14) days from the designation to show proof of insurance, except that if the animal is impounded, proof of insurance must be demonstrated prior to the animal's release;
 - d. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed three (3) feet in length) and under the physical restraint of a person eighteen (18) years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
 - e. If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to the dog's collar at all times as specified in Minnesota Statute 347.51;

- f. If the animal is a dog, cat, or ferret, the owner must show proof of up to date rabies vaccinations annually;
- g. The owner provides and shows proof of microchip identification;
- h. The owner registers the dangerous animal with the Animal Control Officer within fourteen (14) days of the designation and provides satisfactory proof of compliance with the requirements herein.
- i. The owner must pay an initial registration fee to the Animal Control Officer of \$100, and must pay an annual registration fee of \$100 to the Animal Control Officer thereafter.

Subdivision 5. Enforcement:

The Hubbard County Sheriff is designated as the Hubbard County Animal Control Officer to enforce this Ordinance. In the Sheriff's duty of enforcing the provisions of this Ordinance, he or she may designate assistants.

Subdivision 6. Penalty:

Any person who fails, neglects, or refuses to comply with the provisions of this Ordinance, including a violation of Subdivision 1(b)(i)-(vi), is guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than one thousand dollars (\$1,000) or to imprisonment of not more than ninety (90) days, or both. A separate offense shall be deemed committed upon each separate day during or which a violation occurs or continues.

Subdivision 7. Impoundment of Animal:

- (a) A nuisance animal whose owner has been issued a prior violation under this Ordinance for the same nuisance animal within the prior three (3) years and whose owner has failed to correct the nuisance behavior may be impounded and placed in an animal shelter or other facility capable of caring for that animal, subject to the appeal procedure herein.
- (b) An animal declared dangerous may be impounded by the Animal Control Officer, or his/her designee, subject to the appeal procedure herein.
- (c) In addition to the penalties prescribed herein, an owner must also pay the fees associated with impoundment of a nuisance animal and dangerous animal and any veterinarian bills.

Subdivision 8. Appeal Procedure:

- (a) Panel: The appeal panel shall consist of two (2) Hubbard County Commissioners, or their designees, and the Hubbard County Sheriff or his/her designee. The three (3) member panel shall hear appeals to animal impoundment, potentially dangerous animal designations, and dangerous animal designations under this ordinance.
- (b) Manner of Appeal: The owner or custodian of an animal having been declared potentially dangerous, dangerous, or whose animal has been impounded, may appeal the determination(s) and request a hearing. The appeal request must be submitted in writing to the Hubbard County Sheriff within fourteen (14) days of impoundment or receipt of the animal's designation as potentially dangerous or dangerous. The appeal must contain

the owner's name, the animal's name, the date the animal was impounded and/or the date leading to the designation, and a brief statement supporting the owner's appeal. A two hundred fifty dollar (\$250) fee for an appeal is due upon filing the written appeal request, and shall be paid to the Hubbard County Sheriff.

- (c) Hearing: An appeal hearing shall be scheduled by the appeal panel within ten (10) days of receipt of the owner's request for a hearing, and notice provided to the owner of the time and place of the hearing.
- (d) Record: The appeal panel may set limits on the amount of evidence that may be submitted, and the length of testimony offered.
- (e) Determination: The appeal panel shall have the authority, upon a showing of clear and convincing evidence by the owner that the enforcement officer misapplied the ordinance or corrective action has been taken by the owner, to release the impounded animal to its owner, vacate the potentially dangerous animal designation, and/or vacate the dangerous animal designation. In the event the appeal panel finds the enforcement officer misapplied this ordinance, all fees may be reviewed and overturned by the appeal panel.

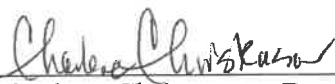
Subdivision 9: Board of Commissioners:

The Hubbard County Board of Commissioners has the authority to adjust fees and penalties within this Ordinance as fees and penalties vary with time. The Board of Commissioners also has the authority to make language changes and corrections within this Ordinance.


Subdivision 10: Date and Effect

This Amendment 1 to Ordinance 44, enacted by the Hubbard County Board of Commissioners on January 21, 2020, shall be in full force and effect from and after its passage, approval and publication, as provided by law. The effective date of the Ordinance shall be February 5, 2020.

**Board of County Commissioners
Hubbard County, Minnesota**



Charlene Christenson, Board Chair
Date: January 30, 2020

Attest: 

Eric Nerness, Coordinator
January 22, 2020

