

**LISTING OF KANABEC COUNTY ORDINANCES**  
**Updated September 2022**

<u>ORDINANCE #</u>	<u>TITLE OR DESCRIPTION</u>	<u>DATE ADOPTED</u>
1	<del>Creates a County Park System</del>	[REPEALED]
2	<del>Creates a County Park Commission</del>	[REPEALED]
3	<del>Vests a County Park Commission</del>	[REPEALED]
4	Subdivision Platting Ordinance	06-08-11
5	Shorelands Ordinance	06-27-12
6	Subsurface Sewage Treatment System Ordinance	02-12-14
6A	<del>Park Use between 10:00pm &amp; 5:00am</del>	[REPEALED]
7	...	
8	Prohibits minors from 'On Sale' Liquor premises & requires licensed premises to be vacated after certain hours	06-21-78
9	Flood Plain Management Ordinance	08-22-90
10	<del>Raffle Licensing System</del> (Repealed 4-10-85)	11-08-78 04-10-85
11	Waste Tire Ordinance	09-28-11
12.	Designating Indian Mound Park & Knife Lake Islands as Archeological Sites	09-13-89
14	Solid Waste Ordinance	08-22-90
15	Prohibits parking on County roads & County road right-of-way in and after snows	01-22-92
16	Ordinance Regulating Gatherings	06-24-92
17	Solid Waste Management Fees	12-23-92
18	Solid Waste Disposal/Designation	11-27-06
19	Tobacco Ordinance	07-01-98
20	Board of Adjustment	05-12-99
21	Surface Use of Knife Lake	06-13-12
22	Comprehensive Land Use Plan	05-08-02
23	Aggregate Tax	07-06-16
24	Adult Use Ordinance	04-25-07
25	Administrative Offense Procedures	11-10-04
26	Traffic & Criminal Code	12-13-04

27	Liquor Ordinance	08-14-13
28	Surface Use of Ann Lake	04-13-05
29	Emergency Management	07-13-05
30	Cleanup of Clandestine Drug Lab Sites	11-16-05
31	False Alarm	08-25-10
33	Social Host	05-26-10
34	Dog Control	03-28-18
35	Interim THC Ordinance	09-06-22

**ORDINANCE NO. 4**  
***SUBDIVISION PLATTING ORDINANCE***

**FOR**

**KANABEC COUNTY, MINNESOTA**

***AUGUST 28, 1985***

***Revised: FEBRUARY 15, 1988***

***Revised: OCTOBER 1, 1996***

***Revised: JUNE 26, 2002***

***Revised: August 10, 2005***

***Revised: December 20, 2006***

***Revised: June 2011***

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**SUBDIVISION PLATTING ORDINANCE FOR**  
**KANABEC COUNTY, MINNESOTA**

AN ORDINANCE ESTABLISHING COMPREHENSIVE PLATTING REGULATIONS FOR THE LAYING OUT OF STREETS, ALLEYS, AND OTHER PUBLIC GROUNDS AND THE SUBDIVISION OF PLATS WITHIN KANABEC COUNTY, MINNESOTA, OUTSIDE THE INCORPORATED LIMITS OF MUNICIPALITIES IN PURSUANCE OF THE AUTHORITY GRANTED BY STATE LAW.

**THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF KANABEC ORDAINS:**

***ARTICLE I***

***GENERAL PROVISIONS***

**SEC. 1.10 SHORT TITLE-** This ordinance shall be known as the “Subdivision Platting Regulations of Kanabec County, Minnesota.”

**SEC. 1.11 REPEALER-** Kanabec County Subdivision Platting Ordinance, Ordinance No. 4 as adopted August 10, 2005 is hereby amended and replaced by this ordinance.

**SEC. 1.12 PURPOSE-** Each new subdivision becomes a permanent unit in basic physical structure of the county, a unit to which, in the future communities will of necessity be forced to adhere. In order that new subdivisions will contribute toward an attractive, orderly, stable and wholesome community environment, adequate public services, and sale streets, all subdivisions shall fully comply with the regulations hereinafter set forth in this ordinance.

**SEC. 1.13 INTERPRETATION-** In the interpretation and application, the provisions of this ordinance shall be the minimum requirements adopted for the protection of the public health, safety and general welfare.

**SEC. 1.14 SCOPE-** This ordinance shall apply and be binding upon all of the area of Kanabec County, Minnesota, located outside the incorporated limits of municipalities and outside a two mile area adjoining any municipality that has adopted subdivision platting regulations and by ordinance has extended the application of such regulations to unincorporated territory located within two miles of its limits.

SEC. 1.15 FILING- The County Auditor shall not accept a subdivision of land in the jurisdiction of this ordinance unless a final plat has been filed under ARTICLE VIII, an exemption certificate has been granted under ARTICLE VII, or a variance is obtained from the County Board under ARTICLE VI.

Except in the case of re-subdivision, this ordinance shall not apply to any lot or lots forming a part of a subdivision recorded in the office of the Register of Deeds prior to the effective date of this ordinance, nor is it intended by this ordinance to repeal, annul, or in any way impair or interfere with existing provision of other laws or ordinances except those specifically repealed by, or in conflict with this ordinance, or with private restrictions places on property by deed, covenant or other private agreement, or with the restrictive covenants running with the land. Where this ordinance imposes a greater restriction upon the land than is imposed or required by such existing provision of law, ordinance, contract or deed, the provision of this ordinance shall control.

**ARTICLE II**  
**DEFINITIONS**

Unless the context indicates a different meaning, for the purposes of this ordinance, certain words, phrases and terms shall be construed as follows:

SEC. 2.10 ALLEY - A public way used primarily as a service access to the rear or side of a property, which abuts on a road.

SEC. 2.11 ATTORNEY- The County Attorney of Kanabec County, Minnesota, or their authorized representative.

SEC. 2.12 AUDITOR - The County Auditor of Kanabec County, Minnesota, or their authorized representative.

SEC. 2.13 BLOCK - The enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.

SEC. 2.14 CLUSTER DEVELOPMENT - A subdivision development planned and constructed so as to group housing units into relatively tight patterns while providing a unified network of open space and wooded areas.

SEC. 2.15 COMMISSION - The Planning Commission of Kanabec County, Minnesota.

SEC. 2.16 COUNTY - Kanabec County, Minnesota.

SEC. 2.17 COUNTY BOARD - The Kanabec County Board of Commissioners.

SEC. 2.18 CUL-DE-SAC - A permanent road terminating at one end without connecting with another road and designed so that it cannot be further extended without taking property not dedicated as a road.

SEC. 2.19 DOUBLE FRONTED LOTS - Lots which have a front line abutting one road and a back or rear line abutting another road.

SEC. 2.20 DRAINAGE COURSE - A watercourse or indenture for the drainage of surface water.

SEC. 2.21 ENGINEER - The County Highway Engineer of Kanabec County, Minnesota, or an authorized representative.

SEC. 2.22 FINAL PLAT - The drawing or map of a subdivision prepared for filing of record pursuant to Chapter 505 of Minnesota Statutes and information required by ARTICLE VIII of this ordinance.

SEC. 2.23 GENERAL COUNTY PLAN - The plan or plans for the orderly growth of Kanabec County as adopted and amended from time to time by the Planning Advisory Commission and the County Board.

SEC. 2.24 GROUP HOUSING - A housing project consisting of a group of five or more buildings constructed on a plot of ground three acres or more in size.

SEC. 2.25 LOCAL ROAD - A public way which affords primary means of access by pedestrians and vehicles to abutting properties, whether designated as a street, avenue, highway, road, boulevard, lane or however otherwise designated.

SEC. 2.26 LOT - Any tract, including out lots, within a subdivision marked by the sub divider as a numbered tract to be offered as a unit of land for sale.

SEC. 2.27 LOT WIDTH - The dimension of a lot measured at the setback line as established by zoning regulations.

SEC. 2.28 MAJOR COLLECTOR — A road that carries an above average volume of traffic. It collects and distributes traffic from neighborhoods, commercial and industrial areas to the arterial road system.

SEC. 2.29 MINOR ARTERIAL — A road that connects cities, large business concentrations, and institutional facilities. More access is provided than principal arterials.

SEC. 2.30 MINOR COLLECTOR — Similar to major collector with less traffic volume.

SEC 2.31 MINOR SUBDIVISION - One division of a tract of land into two lots or parcels as defined in Article VII.

SEC. 2.32 PERSON- Any individual, firm, association, syndicate, or partnership, corporation, trust or any other legal entity.

SEC. 2.33 PRELIMINARY PLAN- A drawing of a proposed subdivision prepared in the manner and containing the data, documents, and information required by ARTICLE III of this ordinance.

SEC. 2.34 PRINCIPAL ARTERIAL — A road that connects metropolitan centers, major business concentrations, large institutional facilities, or major transportation terminals.

SEC. 2.35 PRIVATE ROAD OR RESERVE STRIP- A purported road, way or strip of land reserved for the use of a limited number of persons or purposes as distinguished from a publicly dedicated road.

SEC. 2.36 PUBLIC WALKWAY- A public way designed for the use of pedestrian traffic.

SEC. 2.37 SUBDIVIDER- The owner, agent or person having control of such land as the term is used in this ordinance.



SEC. 2.38 SUBDIVISION- The separation of an area, parcel, or tract of land ~~under single~~ into two or more parcels, tracts, lots or long-term leasehold interests where the creation of the leasehold interests necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial or other combination thereof provided that the following shall not be deemed a subdivision.

- a. Any transfer for which an Exemption Certificate has been given under ARTICLE VII.
- b. The division of a tract of land into complete government lots as defined in the original Public Land Survey Plat Maps of Minnesota as a subdivision of a section, which is normally described by a lot number. A government lot may be regular or irregular in shape and its acreage varies from that of regular section subdivisions. Typically government lots are located along meandering bodies of water.  
Complete quarter/quarter sections with all tracts resulting from the division having an access of at least two rods in width to an existing public road with a maximum of one deeded access per 300' of public road frontage.
- c. Transfer of interest in land pursuant to court order.
- d. A separate parcel of record on September 9, 1969, or a parcel subject to a written agreement to convey entered into prior to such time.
- e. A separate parcel recorded between September 9, 1969 and the effective date of this ordinance, meeting the requirements of all laws and ordinances in effect on the date of its conveyance and recording; or a parcel subject to a written agreement to convey, entered into during such time, meeting said requirements.

SEC. 2.39 SURVEYOR- The County Surveyor of Kanabec County, Minnesota, or his authorized representative.

SEC. 2.40 ZONING ORDINANCE- A zoning ordinance or resolution controlling the use of land as adopted by the county or township.

## **ARTICLE III**

### **PRELIMINARY PLAN**

SEC. 3.10 PROCEDURE FOR PRELIMINARY PLAN- In order to familiarize oneself with this ordinance and related laws and to avoid costly revision of plans and plats, the subdivider is encouraged to have a preliminary discussion with the Surveyor and Commission.

SEC. 3.11- The subdivider shall submit to the Environmental Services Director:

SEC 3.11.1- Eight copies of the preliminary plan and protective covenants, if any proposed.

SEC 3.11.2- Two copies of topographic information including elevation.

SEC 3.11.3- Two copies of soils information and proposed septic treatment sites for individual SSTS's (Subsurface Sewage Treatment Systems, per chapter 7080, MN Pollution Agency).

SEC. 3.11.4 - Township approval letter. A letter of township approval from the affected township.

SEC. 3.12 - The Environmental Services Director shall distribute copies of the preliminary plan as follows:

3.12.1 - Planning Commission, two copies, together with both copies of information under Sec. Sec. 3.11.

3.12.2 - Commissioner of Highways if on a State or Federal highway.

3.12.3 - County Highway Engineer.

3.12.4 - the affected Board of Town Supervisors.

3.12.5 - Municipal Council of any municipality within two miles of the affected property.

3.12.6 - County Surveyor.

SEC. 3.13- The Engineer, Surveyor and the District Highway Engineer, when appropriate, shall within 15 days submit reports to the Commission expressing recommendations for approval, disapproval or revisions. If no report is received within 15 days, it will be assumed by the Commission that there are no objections in the plan as submitted.

SEC. 3.14 - At the first regular meeting following receipt of the above reports, the Commission shall determine whether such plan conforms to design standards set forth in this ordinance and conforms to adopted county plans. The Commission may approve a preliminary plan subject to certain revisions.

SEC. 3.15 - Approval of a preliminary plan by the Commission assures the general acceptability of the layout. Subsequent approval by the County board will be required of the final plat as outlined in ARTICLE VIII. If the final plat is not submitted within one year, the approval of the preliminary shall be considered void unless an extension of the time has been granted as provided for in ARTICLE VIII.

SEC. 3.16 - The action taken by the Commission shall be recorded in the proceedings of the Commission and transmitted to the applicant.

SEC. 3.17 DATA REQUIRED FOR PRELIMINARY PLAN-

3.17.1 Scale: 1 inch equals 100 feet or larger scale.

3.17.2 Identification and Description:

3.17.2.1 - Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat heretofore recorded in the county.

3.17.2.2 - Location by section, town and range with small-scale sketch showing location within the section.

3.17.2.3 - Names and addresses of the owner, subdivider, surveyor and designer of the plan.

3.17.2.4 - Graphic Scale.

3.17.2.5 - North-Point.

3.17.2.6 - Date of Preparation.

3.17.2.7 - Existing conditions in the tract and unless already platted, within 300 feet surrounding the tract:

3.17.2.8 - Property lines.

3.17.2.9 - Districts proposed for non-residential use.

3.17.2.10 - Total acreage of proposed plat.

3.17.2.11 - Platted roads, railroad right-of-way and utility easements.

3.17.2.12 - Permanent buildings or other structures.

3.17.2. 13 - Topographic conditions of area to be platted, including lakes, water courses, swamp areas, rock outcroppings and terrain exceeding 15% slope to adequately portray the land form conditions.

3.17.3 Subdivision Design Features

3.17.3.1 - Layout of proposed roads, showing rights-of-way and names.

3.17.3.2 - Location and widths of proposed pedestrian ways and utility easements.

3.17.3.3 - Layout of proposed surface water drainage easements. Surface water drainage shall be provided by storm sewers or drainage courses adequate to drain surface water from the subdivision while protecting against erosion.

3.17.3.4 - Layout, number and dimension of lots.

3.17.3.5 - Areas other than roads, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.

3.17.3.6 - Typical roadway section. Show a typical roadway section for all proposed roads. Refer to figure 1 for suggested section.

SEC. 3.18 STAGE DEVELOPMENT: Whenever a portion of a tract is proposed for platting and is of a size for future enlargement of such platted portion from time to time, a tentative plan for the future subdivision of the entire tract shall be submitted.

## ARTICLE IV

### MINIMUM DESIGN STANDARDS

SEC. 4.10 APPLICATION- The following land subdivision principles, standards and requirements will be applied by the commission in evaluating plans for proposed subdivisions:

SEC. 4.11- The provisions outlined herein shall be considered minimum standards and requirements for the promotion of the public health, safety, morals and general welfare.

SEC. 4.12- Where literal compliance with the standards herein specified is clearly impractical, the Board may modify or adjust the standards to permit reasonable utilization of property while securing substantial conformance with the objectives of these regulations. The procedure for variation is stated in ARTICLE VI.

#### SEC. 4.13 LAND REQUIREMENTS:

SEC. 4.13.1 - Land shall be suited to the purpose for which it is to be subdivided. No preliminary plan shall be approved, if considering the best interests of the public, the site is not suitable for plat and development purposes of the kind proposed by reason of potential flooding, swamp condition, or adverse earth or rock formation.

Lots subject to flooding and lots deemed uninhabitable because of adverse earth or rock formation shall not be approved by the Commission for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the hazard, but such land within a plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.

SEC. 4.13.2 - Land subject to hazards to life, health or property shall not be subdivided for residential purposes until all such hazards have been eliminated or unless adequate safe-guards against such hazards are provided by the subdivision plan.

SEC. 4.13.3 - Proposed subdivisions shall be coordinated with existing nearby municipalities or neighborhoods so that the community as a whole may develop harmoniously.

SEC. 4.13.4 - Proposed land uses shall conform to any county or township zoning ordinance in effect.

#### SEC. 4.14 ROAD SYSTEM:

4.14.1 - Proposed roads shall be properly related to such road plans or parts thereof as have been officially prepared, and adopted by the county.

4.14.2 - Proposed road shall further conform to such county and state road and highway plans as have been prepared, adopted and/or filed as prescribed by law.

4.14.3 - Roads shall be logically related to the topography so as to produce usable lots and reasonable grades.

4.14.4 - Access shall be given to all lots and portions of the tract in the subdivision. Reserved strips and land-locked areas shall not be created.

4.14.5 - Minor roads shall be laid out to discourage their use by through traffic and where possible, thoroughfares shall be protected for use by through traffic by marginal access roads, lots served by an interior road or other means.

4.14.6 - Half or partial roads will not be permitted, except where essential to reasonable subdivision of a tract in conformance with the other requirements and standards of these regulations and where, in addition, satisfactory assurance for dedication of the remaining part of the road can be secured.

SEC. 4.15 - CUL-DE-SAC ROADS

4.15.1 - Cul-de-sac roads, permanently designed as such shall not exceed 800 feet in length, except as variances are permitted by the Commission. Such a variance may be granted if it can be clearly shown that by reason of unfavorable landform, or the irregular shape of the plat from which the subdivision is being made; that a normal street pattern cannot be established, or that land would be wasted by not granting such a variance.

4.15.2 - Cul-de-sac roads shall be provided at the closed end with a turn-a-round having a minimum radius to the outside edge of the finished road or curb line of not less than fifty (50) feet.

4.15.3 - Unless future extension is clearly impractical or undesirable, the turn-around right-of-way of the same width as the street shall be carried to the property line in such a way as to permit future extension of the street into the adjoining tract. At such time as such a street is extended, the overage created by the turn-around outside the boundaries of the extended street shall revert in ownership to the property owner fronting on the temporary turn-around.

4.16 ROAD DESIGN

4.16.1 Widths: Minimum widths for each type of Public Street, or road shall be as follows:

<u>TYPE OF ROAD</u>	<u>RIGHT-OF-WAY WIDTH</u>
Principal Arterial	200 ft.
Minor Arterial	150 ft.
Major Arterial	120 ft.
Minor Collector	100 ft.
Local Road	66 ft
Alley	33 ft.

4.16.2 - Where a subdivision abuts or contains an existing road of inadequate width, sufficient additional width shall be provided to meet the above standards.

4.16.3 - Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use.

4.16.4 - Extensions of existing roads with lesser right-of-way and/or roadway widths than prescribed above may be permitted by variance in special cases.

4.16.5 RESTRICTION OF ACCESS: When a subdivision or portion thereof adjoins a major thoroughfare, no lot shall have direct access thereto unless there is no practical alternative. Said lots shall be provided with frontage on a marginal access road or an interior road.

4.16.6 INTERSECTIONS: Road intersections shall be as nearly at right angles as is possible, and no intersections shall be at an angle of less than sixty (60) degrees.

4.16.7 ROAD JOGS: Road jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be allowed.

4.16.8 ROAD NAMES: A proposed road which is in alignment with and joins an existing named road shall bear the name of the existing road.

4.16.9 ALLEYS: Alleys or other loading space located off the public right-of-way shall be provided to the rear or side of all lots to be used for commercial or industrial use. When provided, alleys shall be open at both ends.

4.16.10 BLOCKS: Blocks shall be wide enough to allow two tiers of lots with a minimum depth as required by county or township zoning except adjoining a lake, stream, railroad or thoroughfare or where one tier of lots is necessary because of topographic conditions.

#### SEC. 4.17 ARRANGEMENT OF LOTS:

4.17.1 - Side lots lines shall be substantially at right angles to straight road lines or radial to curved road lines or radical to lake or stream shores unless topographic conditions necessitate a different arrangement.

4.17.2 - Each lot shall front upon a public road.

4.17.3 - Double-frontage lots shall be avoided when possible. Residential lots shall be separated from thoroughfares and railroad rights-of-way by a greater lot depth amounting to 10% increase over that required by Section 4.23.

SEC. 4.18 SIZE OF LOTS: No lot shall have less area or width than is required by zoning regulations applying to the area in which it is located: unless provided for otherwise by zoning regulations, the provisions of Section 4.23 shall apply.

4.18.1 - To minimize the danger of the building site being flooded, the Engineer may require that lots abutting a drainage course, channel, stream or lake have additional depth or width.

**SEC. 4.19 PUBLIC USE AND SERVICE AREAS:** Due consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds and parks for local or neighborhood use as well as public service areas.

**SEC. 4.20 PUBLIC OPEN SPACES:** Where a proposed highway, school, historic site, park, recreation area or public access to water frontage shown on the General County Plan is located in whole or in part in the applicant's subdivision, the County board shall require as a condition of final approval that such space within the subdivision be dedicated or reserved. Such reserved land shall not be developed for a period of one year from the date of such final approval to that within said period the appropriate public agency may acquire said land in the manner provided as by law and before it is developed for some purpose not conforming to the official plan.

**SEC. 4.21 EASEMENT FOR UTILITIES:** Except where alleys are provided for the purpose, utility easements not less than twenty (20) feet in width across lots shall be provided for use in erecting, construction and maintaining poles, wires, conduits, surface drainage, water mains, electrical lines and other public utilities.

**SEC. 4.22 DRAINAGE COURSES:** Where storm water from adjacent areas naturally passes through a subdivision, adequate provisions shall be included in the subdivision for facilities to route the storm water through the subdivision to its natural outlet to maintain or replace the natural water course.

**SEC. 4.23 MINIMUM LOT STANDARDS, ROAD AND SANITATION IMPROVEMENTS.**

	Individual Sewage Disposal	Community Sewage Disposal	Community Water Supply and Sewage Disposal System
Lot Area	43,750 sq. ft. or more if required as a result of soil percolation tests as provided for in SEC. 5.17 (Approx. 1 acre)	21,600 sq. ft. (Approx. 1/2 acre)	10,000 sq. ft. (Approx. 1/4 acre)
Lot Width	175 ft.	120 ft.	75 ft.
Lot Depth	250 ft.	180 ft.	130 ft.
Road Driving Surface Width	24 ft.	24 ft.	24 ft.



Road Pavement	6" stabilized gravel	6" stabilized gravel	6" stabilized gravel
Water Supply	Community or Individual	Individual	Community System
Set-back from Right-of-way (Minimum)	30 ft.	30 ft.	30 ft.

SEC. 4.24 - All work and improvements of roads is to be done in accordance with County Highway Department specifications and shall be subject to the recommendations, supervision and approval of the Engineer. See Figure 1 in the Appendix.

## ARTICLE V

### IMPROVEMENTS

Before the County Board shall approve a final plat of a subdivision the subdivider shall have completed and paid for the required improvements at his own expense. Said improvements are the following:

SEC. 5.10 SURVEY MONUMENTS: All subdivision boundary corners, block and lot corners, road intersection corners and points of tangency and curvature shall be marked with survey monuments meeting the minimum requirements of state law. All government corner locations shall be monumented and certificates of government corner locations together with the resurvey information and section breakdown necessary to determine the boundaries of the proposed plat, shall be recorded with the Kanabec County Recorder.

SEC. 5.11 GRADING- Roads and lots shall be graded to secure proper drainage.

SEC. 5.12 SURFACE. WATER DRAINAGE- Surface water drainage shall be provided by storm sewers or drainage courses adequate to drain surface water from the subdivision and protect roadway pavements.

SEC. 5.13 MINIMUM PAVEMENT WIDTH AND ROADWAY SURFACING-

Roads shall meet the standards set forth in SEC. 4.24 and shall be approved after inspection by the Engineer.

SEC. 5.14 SANITATION- When located within the service area of a public sanitary sewage system, sanitary sewers shall be constructed throughout the entire subdivision in such a manner as to serve adequately all lots with connection to such public system.

SEC. 5.15- Storm water drainage shall not be permitted to combine with sanitary sewers nor shall sanitary sewage be permitted in storm water sewers.

SEC. 5.16- Where lots cannot be connected with a public sewage system, provisions must be made for sanitary sewage facilities, consisting of a central treatment plant or individual disposal devices for each lot. This does not mean that the installation of individual disposal devices shall be the expense of the subdivider.

SEC. 5.17- Any subdivision or lot not provided with off-site sewer facilities may be subject to soil percolation tests being made to determine whether or not the lot size proposed will meet minimum standards of health and sanitation if requested by the Commission due to limitations of soils as shown on existing soils maps. Such tests shall be made at the expense of the subdivider.

SEC. 5.18- All proposed sewage disposal systems shall comply with the regulations and recommended standards of the Minnesota Pollution Control Agency.

SEC. 5.19 WATER SUPPLY- Water supply for all areas shall be designed to meet the regulations and recommended standards of the Minnesota Department of Health.

SEC. 5.20- When the subdivision is located within the service area of a public water supply system, water mains not less than 6 inches in diameter shall be constructed throughout the entire subdivision in such a manner to serve adequately all lots and tracts with connection to such public system together with shut-off valves and fire hydrants at intervals of not less than six hundred (600) feet.

## **ARTICLE VI**

### **VARIATIONS FROM REQUIREMENTS**

SEC. 6.10- The Planning Commission may recommend a variation to the County Board from the requirements of subdivision planning procedure or public improvements when a group housing or cluster development is proposed or in specific cases when the tract to be subdivided is of such unusual size, shape, or character or is surrounded by such development or unusual conditions that the strict compliance with the requirements of this article would result in substantial hardship or injustice.

SEC. 6.11- The standards and requirements of these regulations may be modified by the County Board after a public hearing in the case of plans, which in the judgment of the Commission, achieve substantially the objectives of this ordinance and which are further protected by such covenants or other legal provision as will assure conformity to and achievement of the plan.

SEC. 6.20 POLICY- In recommending any variation, the Commission shall take into account the following:

SEC. 6.21- The location of the proposed subdivision, proposed land use, and existing use of land in the vicinity.

SEC. 6.22- The number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

SEC. 6.23- Those variations that will allow the subdivider to develop his property in a reasonable manner and at the same time preserve the general intent and spirit of this ordinance and protect the public welfare and interests of the county.

SEC. 6.30 PROCEDURE FOR VARIATION- Application for any variation shall be submitted in writing by the subdivider at the time the preliminary plan is filed and shall state fully the grounds for the application and the facts relied upon by the petitioner. The Commission shall consider such application, give its written recommendations thereon, with the reasons therefore, at the time of its approval or disapproval of said plan. If the Commission refuses to recommend a variation, the subdivider may at once, without preparing a Final Plat, petition the County Board for a review of the decision of application for variation.

**ARTICLE VII**  
**EXEMPTION CERTIFICATE**

SEC 7.10 The Environmental Services Director may grant an exemption certificate for the following minor subdivisions:

7.10.1 One division of a tract of land into 4 parcels in any twelve month period.

7.10.2 the division of a tract of land into parcels results with all parcels having a minimum width of 300 feet and a minimum of 300 feet of continuous frontage on an existing public road, and

7.10.3 All parcels resulting from the split must be at least one acre in size.

7.10.4 The exemption application form must contain a town official's signature indicating that the resulting parcels meet with town board requirements.

7.10.5 All parcels resulting from the split to be allowed as a building site must meet the requirements as stated in Kanabec County Ordinance #6 – Sewage and Wastewater Treatment –and as defined in MN Rules 7080.1100 Subp. 45 “Lot”. Parcels resulting from a split not meeting this requirement shall be recorded as non-buildable until such time as septic requirements can be met.

7.10.6 Splits must be simple in nature and each resulting parcel not exceeding eight corners.

7.10.7 - Parcels sold to adjacent property owners to provide a better subdivision.

7.10.8 Parcels desirable to correct survey errors or faulty descriptions. This can be accomplished without fee providing that an affidavit of attorney or surveyor stating is presented to the Environmental Services Director.

7.10.9 The division of a tract of land that is a complete quarter/quarter section, but that part exempted by a natural boundary or public road with all tracts resulting from the division having an access of at least two rods in width to an existing road.

7.10.10 Survey Requirements. If the split contains only right angle corners and each resulting parcel is readily defined by metes and bounds, a survey is not required. All other splits require surveys, other than those formed by natural boundaries or pre-existing public roads.

7.11 - Application for an exemption certificate shall be made to the Environmental Services Director.

7.12 - The Environmental Services Office in its consideration shall properly study the application and:

7.12.1 - Determine if the objectives of this ordinance are met.

7.12.2 - May require a public hearing.

7.12.3 - May require a surveyor's description or certificate of survey.

7.12.4 - May notify or consult with the affected town board, county official, or any other person, and may seek professional advice.

7.12.5 - Additional information necessary to properly consider the minor subdivision may be requested.

7.13 - The Environmental Services Director shall grant an exemption certificate if the objectives of this ordinance are met. If denied the subdivider shall be notified of the reasons. An appeal may be taken by any aggrieved person. Such an appeal shall be filed within 30 calendar days after the date of the decision of the Environmental Services Director and specifying the grounds thereof. Appeals shall be to the Board of Adjustment pursuant to §394.27, Subd 6, Minnesota Statutes.

## **ARTICLE VIII**

### **FINAL PLAT**

SEC. 8.10 PROCEDURE FOR FINAL PLAT- After the approval and endorsement of a preliminary plan, the following procedure shall be followed:

SEC. 8.11- Unless an extension of time is requested by the sub divider and granted by the Commission, the subdivider shall within one year following approval of the preliminary plan, submit to the Environmental Services:

8.11.1 Six (6) paper prints of the Final Plat, together with an up-to-date Abstract of Title or a Certificate of Title, and an Opinion of Title by the subdivider's Attorney. The Final Plat shall conform to all Minnesota Platting Regulations.

8.11.2 The Final Plat shall incorporate all changes required by the Commission; otherwise, it shall conform to the preliminary plan. The Final Plat may constitute only that portion of the preliminary plan, which the subdivider proposes to record and develop at the time.

SEC. 8.12- The Environmental Services Director shall refer two (2) prints of the Final Plat to the Surveyor, one (1) to the Engineer, one (1) to the Planning Commission, and one (1) to the Attorney, together with an up-to-date Abstract of Title or a Certificate of Title, and the Opinion of Title prepared by the subdivider's Attorney.

Sec. 8.13- A report of the Surveyor, Engineer, the Planning Commission, and the Attorney shall be submitted to the County Board within (30) days after the submission of the Final Plat. The Surveyor shall state whether the Final Plat conforms to the State Platting Regulations. The Engineer shall state whether the Final Plat and the proposed improvements conform to all engineering standards including requirements of the Minnesota Highway Department, if applicable. The Planning Commission shall state whether the final Plat conforms to the preliminary plan approved by the Commission and incorporates all changes that might have been required. The Attorney shall state whether the fee simple title to the platted property is in the names of the platters.

SEC. 8.14 - The County Board shall act on the Final Plat within 60 days of the date on which it was submitted to the Environmental Services. It shall not approve a Final Plat unless it:

8.14.1 - Conforms to a preliminary plan approved by the Commission.

8.14.2 - Meets the design standards and engineering specifications set forth in this ordinance.

8.14.3 - Conforms to all plans adopted by the Commission and County Board.

8.14.4 - Meets all requirements and laws of the State of Minnesota.

SEC. 8.15 - When the Final Plat is approved by the County Board and certified by the County Auditor/Treasurer and County Attorney, the subdivider shall submit one double mounted, cloth backed prints on card stock or material of equal quality and two transparent reproducible copy. The Final Plat shall then be recorded with the County Recorder.

SEC. 8.16 DATA REQUIRED FOR FINAL PLAN shall be as required under regulations of State laws.

## **ARTICLE IX**

### **FEES**

SEC. 9.1- The fees for submitting or applying for preliminary plats, final plats, exemptions, and variances shall be in the amounts as periodically set by the County Board of Commissioners.

**ARTICLE X**  
**PLANNING COMMISSION**

SEC. 10.10 KANABEC COUNTY PLANNING COMMISSION- The Kanabec County Planning Commission is hereby established and vested with such authority as provided by statutes and ordinances. The Planning Commission shall be composed of five (5) and not more than eleven (11) voting members appointed by the County Board. Members may likewise be removed or suspended for non-performance of duty or misconduct in office. Any vacancies shall likewise be filled. Members can be reappointed.

SEC. 10.20- The members will be appointed for staggered terms of three (3) years. Two (2) members will be appointed the first and third years and three (3) members appointed the second year.

**ARTICLE XI**  
**SEPARABILITY**

SEC. 11.10- If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and sub holding shall not affect the validity of the remaining portions hereof.

**ARTICLE XII**  
**ENFORCEMENT**

SEC. 12.10- This ordinance shall be enforced by the Environmental Services Director, who is hereby designated the enforcing officer.

SEC. 12.20- Any person who shall violate any of the provision of this ordinance shall be deemed guilty of a misdemeanor.

**ARTICLE XIII  
AMENDMENTS**

SEC. 13.10- Amendments may be made to this ordinance by the County Board after recommendations of the Commission following the holding of a public hearing with notice given in the official newspaper of the County at least ten (10) days in advance of the hearing.

**ARTICLE XIV  
EFFECTIVE DATE**

SEC. 14.10- This Ordinance shall be in full force from and after its passage and publication.

---

*Signed* \_\_\_\_\_  
Commissioner Kevin Troupe  
Chairperson of the Kanabec County Board of Commissioners,  
Kanabec County, Minnesota

*Attest:* \_\_\_\_\_  
Dan Weber  
Kanabec County Coordinator

Date: \_\_\_\_\_



SUBDIVISION DESIGN TYPICAL SECTION  
(NOT DRAWN TO SCALE)

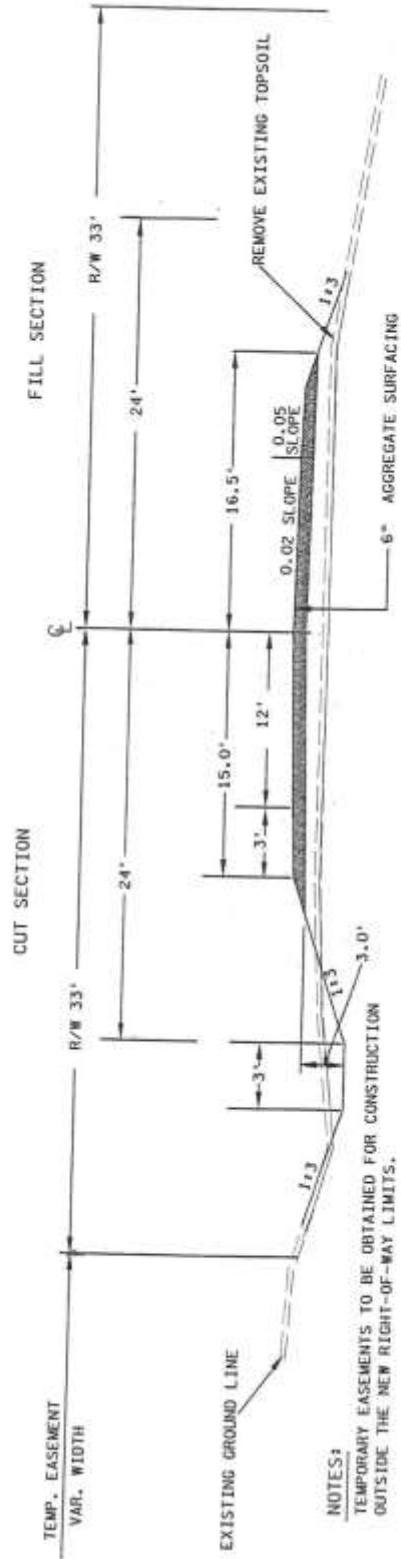


Figure #1

Ordinance No. 5

Ordinance for the Management of Shoreland

Areas of Kanabec County, Minnesota

Revised: June 26, 2019

Effective Date: August 1, 2019

Revised: June 27, 2012

Revised: July 11, 2002

Revised: February 1, 1992

Revised: January 1, 1972

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## 1.0 STATUTORY AUTHORIZATION AND POLICY

**1.1 Statutory Authorization.** This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

**1.2 Policy.** The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Kanabec County.

## 2.0 GENERAL PROVISIONS AND DEFINITIONS

**2.1 Jurisdiction.** The provisions of this ordinance apply to the shorelands of the public water bodies as classified in Section 5.0 of this ordinance, and to the shorelands of public water bodies greater than 10 acres in unincorporated areas in which the city has, by ordinance, extended the application of its zoning regulations as provided by Minnesota Statute, Chapter 462.357 Subd 1. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, lakes, ponds, and flowages less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas are exempt from this ordinance.

**2.2 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.

**2.3 Enforcement.** The Kanabec County Environmental Services Department is responsible 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 the failure to comply with conditions and safeguards established in connection with grants of variances, conditional uses, interim uses, or any other permit or approval granted under this ordinance constitutes a misdemeanor and is punishable as defined by law. The County may undertake enforcement proceedings in regard to any such violations as set forth within this ordinance.

**2.4 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.

**2.5 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.

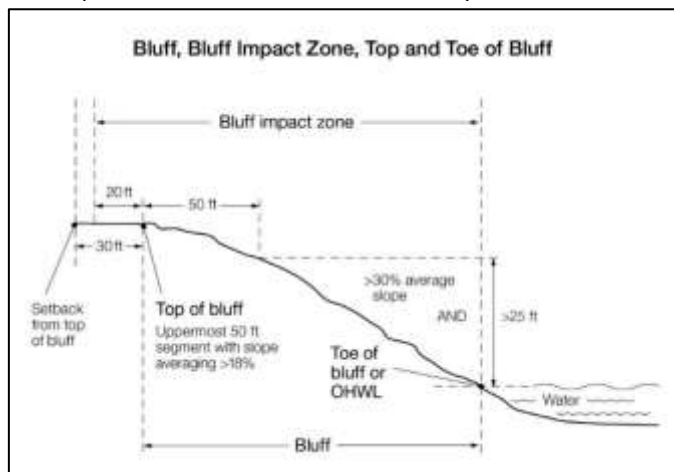
**2.6 Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

**2.7 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. The word "may" is permissive. Words used in the present tense include the past tense, and words used in the singular also include the plural. All distances, unless otherwise specified, are measured horizontally.

- 2.7.1 **Accessory structure.** Any building or structure of a nature customarily incidental and subordinate to a principal use or structure
- 2.7.2 **Accessory Use.** A use incidental or subordinate to a principal use.
- 2.7.3 **Appurtenances.** Appurtenances means the visible, functional, or ornamental objects accessory to, and part of, buildings or structures.
- 2.7.4 **Agricultural Building or Structure.** Any buildings or structures existing or erected on agricultural land designed, constructed, and used principally for agricultural purposes, with the exception of dwelling units.
- 2.7.5 **Agricultural Business, Seasonal.** A seasonal business not exceeding six months in any calendar year operated on a rural farm as defined offering for sale to the general public produce or any derivative thereof grown or raised on the property.
- 2.7.6 **Agricultural Use.** The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including, but not limited to, the following:
  - 2.7.6.1. Field crops including: barley, soybeans, corn, forage, oats, sugar beets, rye, sorghum, and sunflowers.
  - 2.7.6.2. Livestock including: dairy and beef cattle, sheep, swine, horses intended for slaughter, mules, farmed cervidae, llamas, ostriches, emus, rheas, bison, and goats.
  - 2.7.6.3. Poultry and game birds.
  - 2.7.6.4. Horticulture or nursery stock, fruit, vegetables, timber, trees, bees, and fur-bearing animals.
  - 2.7.6.5. Lands enrolled in a government conservation program.
  - 2.7.6.6. Incidental and accessory activities and uses including, but not limited to:
    - 2.7.6.6.1. Pasture, woodland or wetlands, or wildlife land held and/or operated in conjunction with other agriculture uses described in this definition.
    - 2.7.6.6.2. Preparing, packing, treating, storing, or disposing of the products or by-products raised on the premises described in this definition.
    - 2.7.6.6.3. Retail selling by the producer of products raised on premises described in this definition.
- 2.7.7 **Animal feedlot.** A facility as defined by Minnesota Rules, part 7020.0300.
- 2.7.8 **Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics:
  - 2.7.8.1. Part or all of the feature is located in a shoreland area;
  - 2.7.8.2. The slope rises at least 25 feet above the toe of bluff;
  - 2.7.8.3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 percent or greater, except that an area

with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff; and

2.7.8.4. The slope must drain toward the waterbody.

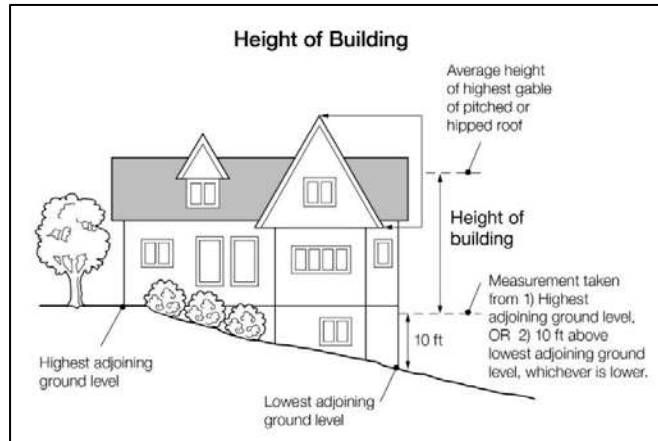


- 2.7.9 **Bluff impact zone.** A bluff and land located within 20 feet of the top of a bluff.
- 2.7.10 **Bluff, Toe of.** The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.
- 2.7.11 **Bluff, Top of.** For the purposes of measuring setbacks, the higher point of a 50-foot segment with an average slope exceeding 18 percent.
- 2.7.12 **Boathouse.** A facility as defined by Minnesota Statutes Section 103G.245.
- 2.7.13 **Buffer.** A vegetative feature as defined by Minnesota Statutes, Section 103F.48.
- 2.7.14 **Building.** Any structure, either temporary or permanent, for the shelter, support or enclosure of persons, animals, chattel or property of any kind; and when separated by party walls without openings, each portion of such buildings so separated shall be deemed a separate building.
- 2.7.15 **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.
- 2.7.16 **Controlled access lot.** A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.
- 2.7.17 **Commercial planned unit developments.** Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- 2.7.18 **Commercial use.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, or services.
- 2.7.19 **Commissioner.** The commissioner of the Department of Natural Resources.
- 2.7.20 **Conditional use.** A land use or development as defined by ordinance and by Minnesota Statutes Section 394.22, subd. 7, or successor statutes, that would not be appropriate generally but may be allowed with appropriate restrictions 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 community and (3) is compatible with the existing neighborhood.

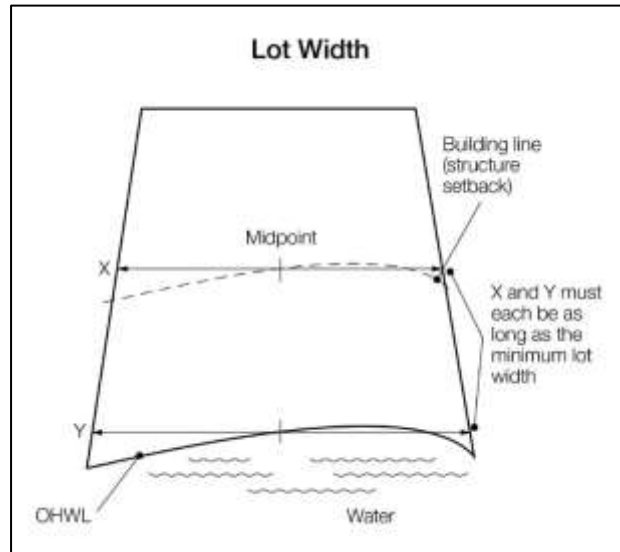
- 2.7.21 **Deck.** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- 2.7.22 **Dock.** A platform extending along shore or protruding out from the shore into a body of water for the mooring, loading and use of boats or for recreational use.
- 2.7.23 **Duplex, triplex, and quad.** A dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 2.7.24 **Dwelling site.** A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 2.7.25 **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.
- 2.7.26 **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.
- 2.7.27 **Extractive use.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.7.28 **Forest land conversion.** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- 2.7.29 **Frost Free Footings.** Frost Free Footings means footing depth of five feet from the bottom of footing to grade
- 2.7.30 **Guest cottage.** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
- 2.7.31 **Height of building.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining 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.



- 2.7.32 **Impervious surface.** A constructed hard surface that prevents or retards 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, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces.
- 2.7.33 **Improved Lot.** A lot that contains a single family dwelling ready for immediate use as determined by Kanabec County, which is served by a subsurface sewage treatment system or public sewer and water supply that provides running indoor water service.
- 2.7.34 **Industrial use.** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- 2.7.35 **Intensive vegetation clearing.** The substantial removal of trees or shrubs in a contiguous patch, strip, row, or block.
- 2.7.36 **Interim Use.** An "interim use" is a temporary use of a property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.
- 2.7.37 **Industrialized/modular building.** "Industrialized/modular building" means a building of closed construction, constructed so that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage, or destruction, and made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. "Industrialized/modular building" includes, but is not limited to, modular housing that is factory-built single-family and multifamily housing, including closed wall panelized housing, and other modular, nonresidential buildings. "Industrialized/modular building" does not include a structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974 or prefabricated buildings, as defined in part 1360.0200, subpart 15.
- 2.7.38 **Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- 2.7.39 **Lot of Record.** Lot of record means a lot which is part of a subdivision approved in accordance with land subdivision requirements, a plat of which has been lawfully recorded; or a parcel of land, the deed of which was lawfully recorded in the same office prior to effective date of the first Kanabec County Shoreland Management Ordinance. January 1, 1972.

2.7.40 **Lot width.** The minimum distance between:

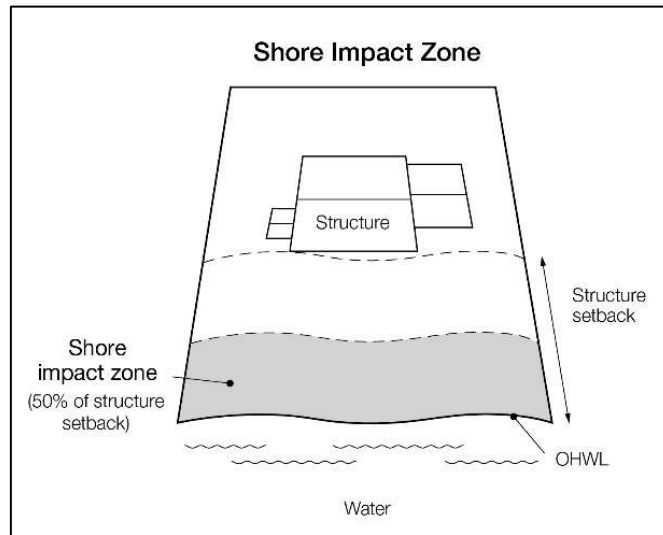
- 2.7.40.1. Side lot lines measured at the midpoint of the building line; and
- 2.7.40.2. Side lot lines at the ordinary high water level, if applicable.



- 2.7.41 **Manufactured home.** "Manufactured home" means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and 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 Minnesota Statutes, chapter 327.
- 2.7.42 **Metallic minerals and peat.** "Metallic minerals and peat" has the meaning given under Minnesota Statutes, Sections 93.44 to 93.51.
- 2.7.43 **Nonconformity.** This means the same as the term is defined in Minnesota Statutes Section 394.22, subdivision 8, and means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.
- 2.7.44 **Ordinary high water level.** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

- 2.7.45 **Planned unit development.** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, 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, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- 2.7.46 **Patio.** An open recreation area that is made out of any material and within a foot of pre-existing grade. A patio may not have railings, trellises, seats or any other features that extend more than one foot above pre-existing or natural grade.
- 2.7.47 **Platform.** A horizontal, unenclosed structure without railings, seats, trellises or other features that is attached or functionally related to a principal use or structure at ground level, or at any point above ground level but less than three (3) feet above the ground. If a structure has railings, trellises, seats or other features then it shall be considered to be and regulated as a deck, regardless of the height above ground level.
- 2.7.48 **Principal Use.** Principal use means the primary or predominant use of any lot or parcel.
- 2.7.49 **Privacy Fence.** Privacy Fence means a fence that creates at least 50% opaque view.
- 2.7.50 **Public Open Spaces.** Parks , playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites and other places where the public is directly or indirectly invited to visit or permitted to congregate.
- 2.7.51 **Public waters.** Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.
- 2.7.52 **Residential planned unit development.** A use where the nature of residency is nontransient 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.
- 2.7.53 **Riparian.** Riparian means a lot or parcel which has contiguous frontage on a river, stream or lake.
- 2.7.54 **Recreational vehicle.** Licensed recreational vehicles such as campers, travel trailers and wheel houses
- 2.7.55 **Resort.** “Resort” has the meaning in Minnesota Statute, Section 103F.227.
- 2.7.56 **Semipublic use.** The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- 2.7.57 **Sensitive Resource Management.** Sensitive Resource Management means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

- 2.7.58 **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.
- 2.7.59 **Sewage treatment system.** "Sewage treatment system" has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82.
- 2.7.60 **Sewer system.** Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- 2.7.61 **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.



- 2.7.62 **Shoreland.** "Shoreland" means land located within the following distances from public waters:
  - 2.7.62.1. 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater.



- 2.7.63 **Shore recreation facilities.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.
- 2.7.64 **Significant historic site.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- 2.7.65 **Steep slope.** Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.
- 2.7.66 **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 facilities.
- 2.7.67 **Subdivision.** Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- 2.7.68 **Suitability analysis.** An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.
- 2.7.69 **Vacation Rental Homes.** Vacation rental homes renting for thirty (30) consecutive days or less (except those located within planned unit developments whose legal documents regulate unit rentals).
- 2.7.70 **Variance.** "Variance" means the same as is defined in Minnesota Statutes, Section 394.22, subd. 10
- 2.7.71 **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 surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.
- 2.7.72 **Water-dependent use.** The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.
- 2.7.73 **Wetland.** "Wetland" has the meaning given under Minnesota Statutes Section 103G.005, subdivision 19, and Minnesota Rule, part 8420.0111.

### 3.0 ADMINISTRATION OF ORDINANCE

#### 3.1 Environmental Services Department

- 3.1.1 **Creation of office.** The office of the Environmental Services Department is hereby established for which the Board of County Commissioners may appoint such employee or employees of the county as it may deem proper.

#### 3.2 APPEALS AND THE BOARD OF ADJUSTMENT

- 3.2.1 **Creation and membership.** A Board of Adjustment has hereby been established by the Kanabec County Board of Commissioners. The Board of Adjustment shall be appointed by the County Board of Commissioners and shall consist of three members and one alternate, whereas one member must also be a member of the Planning Commission. The County Board shall appoint members to the Board of Adjustment for terms as follows:
- 3.2.1.1. Members of the Board shall be appointed for three-year terms beginning January 1. Members may be removed from office by the County Board for good cause shown. Every attempt shall be made to obtain a cross section of the county in appointing members to the Board, and at least two members of the Board of Adjustment must reside or own property in an unincorporated area of the county.
  - 3.2.1.2. No elected officer of the county, nor any employee of the county, shall serve as a member of the Board of Adjustment. The members of the Board of Adjustment shall be compensated as determined by the County Board and shall be paid their necessary expenses in the conduct of the business of the Board.
  - 3.2.1.3. Members shall not vote on issues on which they have a conflict of interest. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular Board member from voting thereon shall be decided by majority vote of regular Board members, except the member who is challenged.
  - 3.2.1.4. The Board of Adjustment shall elect a Chairperson and Vice-Chairperson from among its members and it shall appoint a Secretary who need not be a member of the Board. It shall adopt rules for the transaction of its business. Such rules may include provisions for the giving of oaths to witness and the filing of written briefs by the parties. The Board shall provide a public record of its proceedings which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including the final order.
  - 3.2.1.5. Meetings of the Board of Adjustment shall be held at the call of the Chair and at such other times as the Board in its rules of procedure may specify.
- 3.2.2 **General duties and responsibilities; variances and administrative appeals.**
- 3.2.2.1. The Board of Adjustment shall act upon all requests for variances and upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing this chapter. Such appeal may

be taken by any person, firm or corporation aggrieved, or by any officer, department, board or bureau of a town, municipality, county or state.

3.2.2.2. Hearings by the Board of Adjustment shall be held within such time and upon such notice to interested parties as is provided in its adopted rules of procedure. The Board of Adjustment shall establish criteria necessary in its rules of procedure for filing an application for a variance or an appeal. Written notice of hearings held by the Board of Adjustment shall be sent to affected property owners as provided by law. The Board of Adjustment shall make its decision at the hearing or within a reasonable period of time after the hearing, but may continue the hearing to such length of time as it deems necessary to properly consider each case.

3.2.2.3. 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 powers of the officer to whom the appeal was taken and direct the issuance of a permit. The reasons for the Board's decision shall be stated in writing.

**3.2.3 Variance authority.**

3.2.3.1. The Board of Adjustment shall have the exclusive power to order issuance of variances from the terms of any official control including restrictions placed on non-conformities. Variances shall only be permitted when they are in harmony with the general purpose 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 the criteria under 3.2.4 are met and there are practical difficulties in complying with the official control.

3.2.3.2. Practical difficulties, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

3.2.3.3. Variances shall be granted for earth sheltered construction as defined by M.S. § 216C.06, subd. 14, as it may be amended from time to time, when in harmony with the official controls.

3.2.3.4. 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.

3.2.3.5. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

3.2.3.6. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be



considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

**3.2.4 Findings.**

3.2.4.1. The Board of Adjustment will review variance petitions and consider the following factors prior to finding that a practical difficulty has been presented. The applicant must provide a statement of evidence addressing the following elements to the extent they are relevant to the applicant's situation.

3.2.4.1.1. The granting of the variance will be in harmony with the County Comprehensive Plan.

3.2.4.1.2. The property owner proposes to use the property in a reasonable manner not permitted by an official control.

3.2.4.1.3. The plight of the owner is due to circumstances unique to the property not created by the owner.

3.2.4.1.4. The proposal does not alter the essential character of the locality.

3.2.4.1.5. The practical difficulty cannot be alleviated by a method other than a variance; and

3.2.4.1.6. The granting of the variance will not adversely affect the environmental quality of the area.

3.2.4.2. The Board of Adjustment may grant a variance if it finds that all of the above factors have been established. The Board of Adjustment must not approve a variance request unless the applicant proves all of the above factors and established that there are practical difficulties in complying with official controls. The burden of proof of these matters rests completely on the applicant.

3.2.4.3. In addition to applying the factors above, in all situations where an applicant has applied for any variance "after-the-fact", the Board may factor into its decision any elements of "bad faith".

**3.2.5 Procedure.**

3.2.5.1. The person applying for a hearing before the Board of Adjustment shall fill out and submit to the Environmental Services Department a hearing application form as required by the Department, and fee as determined by the County Board. It shall be the responsibility of the applicant to provide all information necessary for the Board of Adjustment to reach a decision. All applications for variances must be accompanied by the following, unless the Environmental Services Department determines it is not needed for a proper review:

3.2.5.1.1. A certificate of survey and a site plan which shows all existing and proposed structures, well, septic systems and other pertinent data;

3.2.5.1.2. A topographic grading plan showing all grading, surface water flow and erosion control; and

- 3.2.5.1.3. A certificate of compliance for the septic system. If the system is non-compliant, needs to be enlarged, or a new system is proposed, a full design for the system may be needed.
- 3.2.5.2. The Environmental Services Department shall refer the application to the Board of Adjustment for review. Notice shall be provided as required by M.S. § 394.26, as it may be amended from time to time.
- 3.2.5.3. The Board of Adjustment shall hold a public hearing on the proposal. The petitioner or his or her representative shall appear before the Board in order to answer questions concerning the proposal.
- 3.2.5.4. The Board of Adjustment may approve, approve with modifications or conditions or deny an application based on the information available and findings of the Board. All decisions by the Board of Adjustment shall be final; except that, any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within 30 days, after receipt of notice of the decision, to the District Court in the county in which the land is located on questions of law and fact.
- 3.2.5.5. A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement or decision or determination by an administrative official, or a request for a variance, shall be filed with the County Recorder. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Environmental Services Department shall be responsible for the document recording requirements of this section.
- 3.2.5.6. Any violation of a condition or ruling made by the Board of Adjustment shall be a violation of this chapter. Failure to comply with any ruling of the Board of Adjustment shall void any variance or special permit granted by the Board of Adjustment.
- 3.2.5.7. A variance shall be valid for a period of one year and, if not acted upon by the applicant or his or her assigns within that time, the variance shall be void.

### **3.3 PLANNING COMMISSION.**

- 3.3.1 The County Board of Commissioners shall appoint a Planning Commission. The Planning Commission shall consist of not less than five members and not more than eleven members as determined from time to time by the County Board of Commissioners. At least two members shall be residents of the portion of the county outside of the corporate limits of municipalities. No more than one member shall be an officer or employee of the County. At least one member shall be a shoreland resident. Terms of office shall be as follows:
  - 3.3.1.1. One member from the Board of County Commissioners serving a one-year term; and
  - 3.3.1.2. Other county representatives (residents) shall serve a three-year term (a three-year staggered term; two members each year).
- 3.3.2 The removal of any member for non-performance of duty or misconduct in office shall be by resolution of the County Board of Commissioners

- 3.3.3 Vacancies shall be filled in the same manner as a new member; except that, the term of office shall be for the remainder of the term of the vacated commission member.

**3.4 ZONING AMENDMENTS.**

**3.4.1 Criteria for granting zoning amendments:**

- 3.4.1.1. The County Board of Commissioners may adopt amendments to this chapter and in relation both to land uses within a particular district or to the location of the district lines.
- 3.4.1.2. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in changes in conditions in the county.

**3.4.2 Procedure.**

- 3.4.2.1. An amendment to the text of this chapter or the zoning map may be initiated by the County Board of Commissioners, the Planning Commission or by application of a property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Board until it has received the Planning Commission recommendations. Individuals wishing to initiate an amendment application form shall submit it to the Environmental Services Department.
- 3.4.2.2. Written notice of public hearings on the proposed amendment shall be sent to the governing bodies of towns and municipalities located within two miles of the property to be rezoned within the county. In unincorporated areas, the property owners of record within one-half mile of the property zoning amendment. In incorporated areas, the property owners within 500 feet of the property in question shall be notified in writing of the proposed zoning amendment.
- 3.4.2.3. The County Board shall hold a public hearing on any request for a zoning amendment, in the manner specified by Minnesota law. Notice of said hearing shall be published in the official newspaper designated by the County Board.
- 3.4.2.4. The County Board must take action on the application within 60 days following referral by the Planning Commission. The person making the application shall be notified of the action taken. The Environmental Services Department shall maintain records of amendments to the text and zoning map of this chapter.
- 3.4.2.5. No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the Planning Commission within one-year period following denial of such request; except, the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

**3.4.3 OFFICIAL MAPS**

- 3.4.3.1. **Development Procedure.** The Planning Commission may develop and recommend for adoption by the board official maps and amendments thereto covering all or a portion of the unincorporated area of the County. Public hearings on proposed official maps and amendments thereto shall be held in accordance with the provisions of Minnesota Statutes Section 394.26. The

official map and amendments thereto may be adopted and amended by the board.

- 3.4.3.2. All official maps shall be prepared in sufficient detail to permit the establishment of future acquisition lines on the ground. In unplatted areas a minimum of a centerline survey shall have been made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shall be attested to by the county surveyor.
- 3.4.3.3. Copies of official maps and amendments shall be filed in accordance with Minnesota Statutes Section 394.35.
- 3.4.3.4. One copy of the official map shall be furnished to the town clerk of each affected town.

### **3.5 PERMITS REQUIRED.**

- 3.5.1 A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 9.3 of this ordinance. Application for a permit shall be made to the Environmental Services Department on the forms provided. The application shall include the necessary information so that the Environmental Services Department can determine the sites suitability for the intended use and that complaint sewage treatment system will be provided. Permits expire after one year, however a six month extension may be granted by the Environmental Services Department upon written request.
- 3.5.2 A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 7.5, shall be reconstructed
- 3.5.3 or replaced in accordance with the provisions of this ordinance.

### **3.6 CONDITIONAL USE PERMITS**

- 3.6.1 **Criteria for granting conditional use permits.** In considering a conditional use permit, the County Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands. Among other things, the County Planning Commission shall make the following findings where applicable:
  - 3.6.1.1. The conditional 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 and impair property values within the immediate vicinity.
  - 3.6.1.2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
  - 3.6.1.3. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
  - 3.6.1.4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
  - 3.6.1.5. The use is not in conflict with the Comprehensive Plan of the county.

3.6.1.6. Adequate measures have been taken 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.

**3.6.2 Additional Factors to consider.**

3.6.2.1. In evaluating the proposed conditional use the planning commission will consider the waterbody and the topographic, vegetation, and soil conditions of the site to ensure, to the extent possible:

3.6.2.2. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

3.6.2.3. The visibility of structures and other facilities as viewed from public waters is limited;

3.6.2.4. There is adequate water supply and on-site sewage treatment; and

3.6.2.5. 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.

**3.6.3 Additional Conditions.**

3.6.3.1. In considering a new conditional use or the alteration of an existing conditional use, the Planning Commission may recommend to the County Board, and the County Board may impose, in addition to these standards and requirements expressly specified by this chapter, additional conditions which the County Board considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

3.6.3.1.1. Increasing the required lot size or yard dimension;

3.6.3.1.2. Limiting the height, size or location of buildings;

3.6.3.1.3. Controlling the location and number of vehicle access points;

3.6.3.1.4. Increasing the street width;

3.6.3.1.5. Increasing the number of required off-street parking spaces;

3.6.3.1.6. Limiting the number, size, location or lighting of signs;

3.6.3.1.7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; and

3.6.3.1.8. Designating sites for open space.

3.6.3.2. 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 were being issued. The County Environmental Services Department shall maintain a record of all conditional use permits.

**3.6.4 Procedure.**

- 3.6.4.1. The person applying for a conditional use permit shall fill out and submit to the Environmental Services Department a conditional use application form.
- 3.6.4.2. The Environmental Services Department shall refer the application to the Planning Commission for review.
- 3.6.4.3. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the County Board at least ten days prior to the hearing. Notice of the hearing shall also be submitted to the governing bodies of all towns and municipalities within two miles of the property under consideration located within the county. In unincorporated areas of the county, property owners of record within one-quarter mile of the affected property or the ten properties nearest to the affected property, whichever is the greatest number of property owners shall be notified in writing of the public hearing on the request for conditional use permit.
- 3.6.4.4. The petitioner or his or her representative shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
- 3.6.4.5. An amended conditional use permit application shall be administered in a matter similar to that required for a new special use permit. Amended special use permit shall include requests for changes in conditions.
- 3.6.4.6. No application for a conditional use permit shall be resubmitted for a period of six months from the date of said order of denial. Conditional use permits shall be valid for six months unless otherwise specified. All conditions in a conditional use permit shall be commenced within six months and shall be complied with within one year unless otherwise specified.
- 3.6.4.7. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten days prior to the review.
- 3.6.4.8. The Planning Commission shall send its recommendation and findings to the County Board.
- 3.6.4.9. 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.
- 3.6.4.10. In the event that the applicant violates any of the conditions set forth in this permit, the County Board shall have the authority to revoke the conditional use permit.
- 3.6.4.11. A certified copy of any conditional use permit shall be filed with the County Recorder. The conditional use permit shall include the legal description of the property involved. The Environmental Services Department shall be responsible for the document recording requirements of this section.

### **3.7 INTERIM USE PERMITS**

#### **3.7.1 General**

- 3.7.1.1. Interim use permits (IUP) may be issued for the uses or purposes for which such permits are required or permitted by provisions of this Ordinance.
- 3.7.1.2. 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.
- 3.7.1.3. 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.

#### **3.7.2 Application**

- 3.7.2.1. Applications for interim use permits along with the accompanying fee shall be submitted to the Environmental Services Department on forms supplied by the Environmental Services Department for that purpose.
- 3.7.2.2. The application must include sufficient information to allow the Environmental Services Department 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.

#### **3.7.3 Procedure upon application**

- 3.7.3.1. Upon receipt of an application, the Environmental Services Department shall respond in accordance with Minnesota Statute 15.99.
- 3.7.3.2. Upon receipt of an application, the Environmental Services Department shall review the application as to form, completeness, and compliance with the provisions of this ordinance. If found to be complete, the Environmental Services Department shall process the application.
- 3.7.3.3. An application deemed complete by the Environmental Services Department 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.
- 3.7.3.4. 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.

3.7.4 **Review Procedure.** In all cases the County shall consider whether:

- 3.7.4.1. The proposed use is an interim use expressly designated in the ordinance; and,
- 3.7.4.2. 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,
- 3.7.4.3. 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,
- 3.7.4.4. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided; and,
- 3.7.4.5. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and,
- 3.7.4.6. 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.
- 3.7.4.7. Applicants must submit evaluations performed by qualified individuals for the following:
  - 3.7.4.7.1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction; and,
  - 3.7.4.7.2. The visibility of structures and other facilities as viewed from public waters is limited; and,
  - 3.7.4.7.3. The site is adequate for water supply and on-site sewage treatment; and,
  - 3.7.4.7.4. 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.

3.7.5 **Conditions Attached to Interim Use Permits**

- 3.7.5.1. 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:
  - 3.7.5.1.1. Increased setbacks from the ordinary high water level;
  - 3.7.5.1.2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
  - 3.7.5.1.3. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
  - 3.7.5.1.4. Modification of waste treatment and water supply facilities.



- 3.7.5.1.5. Limitations on period of use, occupancy, and operation.
- 3.7.5.1.6. Imposition of operational controls, sureties, and deed restrictions.
- 3.7.5.2. 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.
- 3.7.6 **Duration.** 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 Department. Interim use permits shall expire after the period of time specified by the conditions of the IUP.
- 3.7.7 **Mitigation.**
  - 3.7.7.1. In evaluating all variances, conditional uses, interim uses, and zoning and building permit applications, the County may require the property owner to address, when appropriate, the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:
    - 3.7.7.1.1. Advanced storm water runoff management treatment;
    - 3.7.7.1.2. Reducing impervious surfaces;
    - 3.7.7.1.3. Increasing setbacks from the ordinary high water level;
    - 3.7.7.1.4. Restoration of wetlands;
    - 3.7.7.1.5. Limiting vegetation removal and/or riparian vegetation restoration;
    - 3.7.7.1.6. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
    - 3.7.7.1.7. Other conditions the zoning authority deems necessary.
  - 3.7.7.2. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.
- 3.7.8 **Notifications to the Department of Natural Resources.**
  - 3.7.8.1. All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least thirty days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
  - 3.7.8.2. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the

commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

3.7.8.3. Any request to change the shoreland management classification of public waters within Kanabec County will be sent to the commissioner or the commissioner's designated representative for approval, and will comply with Minnesota Rules, part 6120.3000, subp.4.

3.7.8.4. Any request to reduce the boundaries of shorelands of public waters within Kanabec County will be sent to the commissioner or the commissioner's designated representative for approval. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

**3.8 MANDATORY EAW.** An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29, and 36a.

## **4.0 NONCONFORMITIES**

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.

### **4.1 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:

- 4.1.1 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.
- 4.1.2 A change from one nonconforming use to another nonconforming use is prohibited.
- 4.1.3 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.
- 4.1.4 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.
- 4.1.5 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.
- 4.1.6 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.

- 4.1.7 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.
- 4.1.8 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.

## **4.2 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:

- 4.2.1 No nonconforming structure shall be expanded, enlarged, or intensified without first obtaining a variance unless each of the following conditions can be met:
  - 4.2.1.1. The expansion, enlargement or intensification does not violate any other standards of this Ordinance other than regulation(s) that made the structure nonconforming in the first place.
  - 4.2.1.2. An onsite sewage treatment system can be installed in accordance with Kanabec County Septic Regulations or the nonconforming structure is connected to a public sewer.
  - 4.2.1.3. The expansion, enlargement, or intensification does not occur within a bluff or shore impact zone.
  - 4.2.1.4. 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.
- 4.2.2 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 non-homestead 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.
- 4.2.3 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.

- 4.2.4 Normal maintenance of a nonconforming structure including nonstructural maintenance and repair is permitted.
- 4.2.5 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.

#### **4.3 DECK AND PLATFORM ADDITIONS**

- 4.3.1 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 January 1, 1972 if all of the following criteria and standards are met:
  - 4.3.1.1. 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;
  - 4.3.1.2. 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.
  - 4.3.1.3. The deck or platform is constructed of environmentally friendly materials, and the deck or platform is not roofed or screened;
  - 4.3.1.4. Only one deck or platform per this Section is allowed for a dwelling unit on a lot.

#### **4.4 NONCONFORMING LOTS OF RECORD**

- 4.4.1 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:
  - 4.4.1.1. The use is permitted in the shoreland district;
  - 4.4.1.2. The lot has been in separate ownership from abutting lands at all times since it became substandard;
  - 4.4.1.3. The lot was created compliant with official controls in effect at that time;
  - 4.4.1.4. The applicable setback requirements of this Ordinance are met;
  - 4.4.1.5. 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;
  - 4.4.1.6. The lot contains an adequate supply of water for domestic purposes that meets or exceeds standards of the Minnesota Department of Health.
  - 4.4.1.7. Maximum impervious surface coverage shall be less than 25%; and

- 4.4.2 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:
- 4.4.2.1. 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.
  - 4.4.2.2. 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 Kanabec County Septic Ordinance.
  - 4.4.2.3. Impervious surface coverage must not exceed 25 percent of each lot.
  - 4.4.2.4. Development of the lot must be consistent with the intent, purpose, and objectives of this Ordinance and the Kanabec County Comprehensive Land Use Plan.
- 4.4.3 If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 4.4.2 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 7.2.5 of this Ordinance as much as possible.
- 4.4.4 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 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 Minnesota Rules Chapter 7080 or connected to a public sewer.
- 4.4.5 Development on lots which do not meet the development standards detailed in this section must be authorized by a variance pursuant to Section 3.2 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.
- 4.4.6 In evaluating all variances, zoning and land use permit applications, 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.
- 4.4.7 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.

#### **4.5 NONCONFORMING SEWAGE TREATMENT SYSTEMS.**

- 4.5.1 A sewage treatment system not meeting the requirements of Section 7.52 of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. Alternate septic systems installed under PCA guidelines are considered to be conforming systems.

The governing body of Kanabec County has by formal resolution notified the commissioner of its program to identify nonconforming system identified by this program within a reasonable period of time which will not exceed one year. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, systems using cesspools; leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency Chapter 7080 for design of on-site sewage treatment systems, shall be considered failing.

## 5.0 SHORELAND CLASSIFICATION SYSTEM AND LAND USES

### 5.1 Shoreland Classification System.

**Shoreland Classification System: Classes.** The classes of public waters are natural environment lakes, recreational development lakes, general development lakes, remote river segments, agricultural river segments, urban river segments, and tributary river segments. All of the river classes except tributary consist of watercourses that have been identified as being recreationally significant on a statewide basis. The tributary class consists of all other watercourses identified in the protected waters inventory. A general description of each class follows.

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

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

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

**“Remote river segments”** are primarily located in roadless, forested, sparsely populated areas of the northeastern part of the state. Common land uses include multiple-use forestry, some recreation facilities, and occasional seasonal or year- round residential. Low intensity recreational uses of these river segments and adjacent lands are common. This class has limited potential for additional development and recreational use due to land suitability and road access constraints.

**“Forested river segments”** are located in forested, sparsely to moderately populated areas with some roads in the north-central part of the state. Predominant land uses include multiple-use forestry, some recreation facilities, seasonal residential, and, within commuting distances of several cities, some year-round residential. Low-intensity recreational uses of these rivers and adjacent lands are common. This class has substantial potential for additional development and recreational use.

**“Transition river segments”** are generally either located within the Minnesota and Mississippi river valleys, or within the middle reaches of several rivers in all regions except the north central and northeast. Common land uses include forested within riparian strips and mixtures of cultivated, pasture

and forested beyond. Some seasonal and year-round residential development exists, particularly within commuting distance of major cities. The types and intensities of recreational uses within this class vary widely.

**“Tributary river segments”** consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes in items 5.1.4. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

The public waters of Kanabec County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3000, and the Protected Waters Inventory Map for Kanabec County, Minnesota.

- 5.1.1 Purpose. To ensure that shoreland development on the public waters of Kanabec County are regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.
- 5.1.2 The shoreland area for the waterbodies listed in Sections 5.1.3 to 5.1.5 are defined in Section 2.7.62 and are shown on the Zoning Map.
- 5.1.3 Lakes are classified as follows:

Lake Classification	DNR Public Waters I.D. #	Section	Township	Range
<b>General Development</b>				
<i>Lake Mora (Protected Wetland)</i>	33-34	11,12	39	24
<b>Recreational Development</b>				
<i>Eleven</i>	33-1	2,11	42	22
<i>Pomroy</i>	33-9	19,30;24,25	41	22;23
<i>Mud (Quamba)</i>	33-15	1,2,3	39	23
<i>Spring</i>	33-27	1,12	39	24
<i>Knife</i>	33-28	Various	40;41	23;24
<i>Lewis</i>	33-32	29,30,31,32	38	24
<i>Devils</i>	33-33	4;33	38;39	24
<i>Fish</i>	33-36	23,26,27,28 33,34	39	24
<i>Ann</i>	33-40	1,2,3:30:25, 35,36	39;40	25;24
<i>Bass(Boundary lake)</i>	58-137	6;1;31	42;43	21;22
<i>Lory</i>	30-96	32	38	24
<b>Natural Environment</b>				
<i>Beauty</i>	33-2	3,10	42	22
<i>Five</i>	33-3	4,5,8	42	22
<i>Twelve(Protected Wetland)</i>	33-4	12	42	22
<i>Thirteen</i>	33-5	12,13	42	22
<i>Featherbed</i>	33-6	13,24	42	22
<i>White Lily</i>	33-8	27,34	42	22
<i>Peace</i>	33-10	6;31;1,36	41;42	22;23

Rice	33-11	4;28,33	37;38	23
Grass(Protected Wetland)	33-13	13,14,23,24	38	23
-Unnamed-(Protected Wetland)	33-14	26	38	23
Spence	33-16	20,29	39	23
-Unnamed-	33-17	22	39	23
Sells	33-18	22,27	39	23
*Twin or East Lake (Protected Wetland)	33-19	23,26	39	23
Luchts(Protected Wetland)	33-21	32	40	23
Full of Fish	33-24	10,15	41	23
Pocket Knife(Protected Wetland)	33-25	32	41	23
Snowshoe(protected Wetland)	33-26	33	42	23
Pennington	33-30	13	38	24
Erickson(Protected Wetland)	33-31	20	38	24
Kent	33-35	16,21	39	24
Telander(Protected Wetland)	33-37	12,13	40	24
Lindgren(Boundary Lake)	30-144	1,2;35,36	37;38	25
Long Lake(Protected Wetland)	33-44	4	42	22

5.1.4 Rivers and Streams are classified as follows:

River and Stream Classification	Legal Description
<b>Urban</b>	
None Classified within Kanabec County	n/a
<b>Agricultural</b>	
None Classified Within Kanabec County	n/a
<b>Transition</b>	
Snake	From North Section line, Sec. 30, T40N, R23W, to Border of Pine and Kanabec Counties.
Groundhouse	From the confluence with S. Fork of Grounhouse River in Sec.7, T38N,R24W to the confluence with Snake River in Sec.6, T38N, R23W.
Ann	From outlet Fish Lake in Sec. 28, T39N,R24W to the confluence with Snake River in Sec. 24, T39N, R24W
Southfork of Groundhouse	From Mille Lacs Co. line in Sec.18, T39N,R25W to the confluence with the Groundhouse River in Sec.7, T38N, R24W
<b>Forested</b>	



<i>Snake</i>	<i>From North section line, Sec. 11, T41N, R23W to South Section line, Sec. 19, T40N, R23W</i>
<i>Groundhouse</i>	<i>From border of Mille Lacs and Kanabec Counties to confluence with S. Fork Groundhouse R. in Sec. 7, T38N, R24W.</i>
<i>Knife</i>	<i>All</i>
<i>Ann</i>	<i>From Ann Lake in Sec.29, T40N, R25W to Fish Lake in Sec.28, T39N, R24W.</i>
<b>Remote</b>	
<i>Snake</i>	<i>From border of Aitkin and Kanabec Counties to South section line, Sec. 2, T41N, R23W</i>
<b>Tributary Streams</b>	

5.1.5 All public rivers and streams shown on the Public Waters Inventory Map for Kanabec County a copy of which is adopted by reference, not given a classification in Section 5.14 shall be considered "Tributary."

## 5.2 Land Uses.

5.2.1 **Purpose.** To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality. The following are general considerations and criteria for all land uses:

- 5.2.1.1. Preservation of natural areas;
- 5.2.1.2. Present ownership and development of shoreland areas;
- 5.2.1.3. Shoreland soil types and their engineering capabilities;
- 5.2.1.4. Topographic characteristics;
- 5.2.1.5. Vegetative cover;
- 5.2.1.6. In-water physical characteristics, values, and constraints;
- 5.2.1.7. Recreational use of the surface water;
- 5.2.1.8. Road and service center accessibility;
- 5.2.1.9. Socioeconomic development needs and plans as they involve water and related land resources;
- 5.2.1.10. The land requirements of industry which, by its nature, requires location in shoreland areas; and
- 5.2.1.11. The necessity to preserve and restore certain areas having significant historical or ecological value.

5.2.2 **Land Use District Descriptions.** The land use districts provided below, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the Zoning Map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Regulations, Part 6120.3200, Subd. 3:

Land Use District Descriptions are as follows:

- 5.2.2.1. A special protection district is intended to be used for two basic purposes. The first purpose is to limit and properly manage development in areas that are generally unsuitable for development or uses due to flooding, erosion, limiting soil conditions, steep slopes, or other major physical constraints. A second purpose is to manage and preserve areas with special historical, natural, or biological characteristics.
- 5.2.2.2. A residential district is primarily intended to allow low to medium density seasonal and year round residential uses on lands suitable for such uses. It is also intended to prevent establishment of various commercial, industrial, and other uses in these areas that cause conflicts or problems for residential uses. Some nonresidential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.
- 5.2.2.3. A mixed use district is intended to be used to provide for existing or future commercial and/or residential uses in the shoreland district.
- 5.2.3 Shoreland district land uses listed in Sections 5.2.2 are regulated as:
  - 5.2.3.1. **Permitted uses (P).** These uses are allowed, provided all standards in this ordinance are followed;
  - 5.2.3.2. **Conditional uses (C).** These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 3.6 of this ordinance and any additional conditions listed in this ordinance; and
  - 5.2.3.3. **Not permitted uses (N).** These uses are prohibited.
- 5.2.4 The shorelands of Kanabec County, Minnesota, are hereby designated with the following land use district(s):
  - 5.2.4.1. Residential District
  - 5.2.4.2. Mixed Use District
  - 5.2.4.3. Special Protection District

<b>RESIDENTIAL LAND USE DISTRICT (LAKES)</b>		
<b>C-Conditional Use P-Permitted N-Non-Permitted</b>		
<b>Land Uses</b>	<b>Recreational Development</b>	<b>Natural Environment</b>
Single residential	P	P
Duplex, triplex, quad residential	N	N
Residential PUD	N	N
Water-dependent commercial - As accessory to a residential planned unit development	N	N
Commercial	N	N
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N
Parks & historic sites	C	C

Public, semipublic	C	C
Industrial	N	N
Agricultural: cropland and pasture	P	P
Agricultural feedlots – New	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N
Forest management	P	P
Forest land conversion	C	C
Extractive use	N	N
Mining of metallic minerals and peat	N	N

<b>MIXED USE LAND USE DISTRICT (LAKES)</b>		
<b>C-Conditional Use P-Permitted N- Non-permitted</b>		
<b>Land Uses</b>	<b>Recreational Development</b>	<b>Natural Environment</b>
Single residential	P	P
Duplex, triplex, quad residential	C	N
Residential PUD	C	N
Water-dependent commercial - As accessory to a residential planned unit development	C	N
Commercial	C	N
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	C	N
Parks & historic sites	C	C
Public, semipublic	C	C
Industrial	N	N
Agricultural: cropland and pasture	P	P
Agricultural feedlots – New	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N
Forest management	P	P
Forest land conversion	C	C
Extractive use	N	N
Mining of metallic minerals and peat	N	N

<b>SPECIAL PROTECTION LAND USE DISTRICT (LAKES)</b>		
<b>C- Conditional Use P-permitted N-Non-permitted</b>		
<b>Land Uses</b>	<b>Recreational Development</b>	<b>Natural Environment</b>
Single residential	C	C
Duplex, triplex, quad residential	N	N
Residential PUD	N	N

Water-dependent commercial - As accessory to a residential planned unit development	N	N
Commercial	N	N
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N
Parks & historic sites	C	C
Public, semipublic	C	C
Industrial	N	N
Agricultural: cropland and pasture	C	C
Agricultural feedlots – New	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N
Forest management	P	P
Forest land conversion	C	C
Extractive use	N	N
Mining of metallic minerals and peat	N	N

<b>RESIDENTIAL LAND USE DISTRICT (RIVERS)</b>				
<b>C- Conditional Use P-Permitted Use N-Non- permitted</b>				
<b>Land Uses</b>	<b>Remote</b>	<b>Forested</b>	<b>Transition</b>	<b>Tributary</b>
Single residential	P	P	P	P
Duplex, triplex, quad residential	N	N	N	N
Residential PUD	N	N	N	N
Water-dependent commercial - As accessory to a residential planned unit development	N	N	N	N
Commercial	N	N	N	N
Commercial PUD - Limited expansion of commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N	N	N
Parks & historic sites	C	C	C	C
Public, semipublic	C	C	C	C
Industrial	N	N	N	N
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N	N	N
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	N	N	N	N
Mining of metallic minerals and peat	N	N	N	N

<b>MIXED USE LAND USE DISTRICT (RIVERS)</b>				
<b>C-Conditional Use P-Permitted Use N-Non-permitted</b>				
<b>Land Uses</b>	<b>Remote</b>	<b>Forested</b>	<b>Transition</b>	<b>Tributary</b>
Single residential	P	P	P	P
Duplex, triplex, quad residential	N	N	N	N
Residential PUD	N	N	N	N
Water-dependent commercial - As accessory to a residential planned unit development	N	N	N	N
Commercial	C	C	C	C
Commercial PUD - Limited expansion of commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N	N	N
Parks & historic sites	C	C	C	C
Public, semipublic	C	C	C	C
Industrial	N	N	N	N
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N	N	N
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	N	N	N	N
Mining of metallic minerals and peat	N	N	N	N

<b>SPECIAL PROTECTION LAND USE DISTRICT (RIVERS)</b>				
<b>C-Conditional Use P-Permitted N-Non-Permitted</b>				
<b>Land Uses</b>	<b>Remote</b>	<b>Forested</b>	<b>Transition</b>	<b>Tributary</b>
Single residential	C	C	C	C
Duplex, triplex, quad residential	N	N	N	N
Residential PUD	N	N	N	N
Water-dependent commercial - As accessory to a residential planned unit development	N	N	N	N
Commercial	N	N	N	N

Commercial PUD - Limited expansion of a commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 11.0 of this ordinance are satisfied.	N	N	N	N
Parks & historic sites	C	C	C	C
Public, semipublic	C	C	C	C
Industrial	N	N	N	N
Agricultural: cropland and pasture	C	C	C	C
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	N	N	N	N
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	N	N	N	N
Mining of metallic minerals and peat	N	N	N	N

**5.2.5 Use and Upgrading of Inconsistent Land Use Districts.**

- 5.2.5.1. The land use districts adopted in Kanabec County, as they apply to shoreland areas, and their delineated boundaries on the Zoning Map, are not consistent with the land use district designation criteria specified in Section 5.2.2 herein. These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Zoning Map or to modify the boundary of an existing land use district shown on the Zoning Map.
- 5.2.5.2. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:
  - 5.2.5.2.1. For Lakes -When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this ordinance on said lake must be revised to make them substantially compatible with the framework in Sections 5.2.2 of this ordinance.
  - 5.2.5.2.2. For Rivers and Streams - . When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance must be revised to make them substantially compatible with the framework in Section 5.2.2 of this ordinance. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.
- 5.2.5.3. When an interpretation question arises about whether a specific land use fits within a given use category, the interpretation shall be made by the Board of

Adjustments. When a question arises as to whether a land use district's boundaries are properly delineated on the Zoning Map, this decision shall be made by the Environmental Services Department, Zoning Administrator for Kanabec County, with appeals to the County Board.

- 5.2.5.4. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question- The Kanabec County Board will direct the Environmental Services Department to provide such additional information for this water body as is necessary to satisfy Items 5.2.5.2.1 and 5.2.5.2.2.
- 5.2.5.5. The Kanabec County Board must make a detailed finding of fact and conclusion when taking action that this revision, and the upgrading of any inconsistent land use district designations on said water body, are consistent with the enumerated criteria and use provisions of Section 5.2.

## **6.0 SPECIAL LAND USE PROVISIONS**

### **6.1 Mixed Use, Public, and Semipublic Use Standards.**

- 6.1.1 Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:
  - 6.1.1.1. The use complies with provisions of Section 5.2;
  - 6.1.1.2. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
  - 6.1.1.3. 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
  - 6.1.1.4. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
    - 6.1.1.4.1. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and
    - 6.1.1.4.2. Signs placed within the shore impact zone are:
      - (a) No higher than ten feet above the ground, and no greater than 32 square feet in size; and
      - (b) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
  - 6.1.1.5. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.
- 6.1.2 Commercial, public, and semi-public uses that are not water-dependent must be located on lots or parcels without public waters frontage.

## **6.2 Vacation Rental Home. Vacation/Private Home Rental**

The following standards apply to vacation/private homes renting for thirty (30) days or less except those located within Planned Unit Developments whose legal documents regulate unit rentals.

- 6.2.1 The owner of a vacation/private home rental must apply for and receive an Interim Use Permit from the County in order to rent the property. The initial Interim Use Permit will be valid for two (2) years in order to determine the compliance level of the owner with the conditions of approval. For vacation/private home rentals with compliance issues during the initial term of their IUP, subsequent renewals shall be for five (5) years or less as established by the Kanabec County Planning Commission. The home owner must inhabit the home for no less than 30 days per year. All vacation/private home rentals are required to have a Minnesota Department of Health Lodging license. Termination of the IUP will be when there is a change of ownership of the vacation/private home rental property; or if compliance issues occur during the lodging license period, the IUP may be revoked or amended after a hearing before the Planning Commission with a recommendation to the County Board to revoke the IUP.
- 6.2.2 The application for an Interim Use Permit shall include:
  - a. All information required for a conditional use permit,
  - b. Floor plan of the structure, including the number of bedrooms with dimensions and all other sleeping accommodations,
  - c. A to-scale site plan which shows locations and dimensions of property lines, the structure intended for licensing, accessory structures, parking areas, shore recreational facilities (docking plan, fire pit area, swim beach, etc.) and sewage treatment systems.
  - d. Emergency contact information (police, fire, hospital, septic tank pumper) be posted in the home.
  - e. Current compliance inspection on the septic system.
  - f. Current water test from an accredited laboratory with test results for nitrate-nitrogen and coliform bacteria.
  - g. Plan for garbage disposal.
  - h. Applicant must submit a pet policy.
  - i. In each bedroom and any room used for sleeping, show the dimensions of egress windows on the drawing and the style (double hung, sliding or casement).
- 6.2.3 The occupancy ( overnight occupants) of a vacation/private home rental shall be limited to no more than two (2) persons per bedroom plus two (2) additional persons per building, or no more than one (1) person for every seventy-five (75) gallons of water per day that the building subsurface sewage treatment system (SSTS) is designed to handle, whichever is less. The maximum number of occupants, including both overnight and non-overnight occupants shall not exceed twice the approved overnight occupancy.
- 6.2.4 The vacation/private home rental shall be connected to an approved SSTS. 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 number of guests for which the facility is permitted. The SSTS shall include a flow measuring device. Flow measurement readings and monitoring of the SSTS shall be recorded monthly and provided to the Department. The use of holding tanks for vacation/private home rental units shall be prohibited.



- 6.2.5 On-site parking shall be provided which is sufficient to accommodate the occupants of the vacation/private home rental. On-site parking shall be on an improved surface (gravel, asphalt, recycle or concrete). Public streets and septic systems may not be used for calculating parking by renters or guests. Parking areas must be setback a minimum distance of five (5) feet from the property lines.
- 6.2.6 Attempting to obtain additional occupancy by use of recreational vehicles, tents, accessory structures or fish houses is prohibited.
- 6.2.7 Rooms used for sleeping shall be provided with egress windows that comply with the Minnesota State Building Code and with smoke detectors in locations that comply with MN Statute Chapter 299F or the requirements of the Department, whichever is more restrictive. Carbon monoxide detectors shall be installed in locations that comply with MN Statute Section 299F.51. Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of usable floor space, and every room occupied for sleeping purposes by more than one person shall contain not less than 60 square feet of usable floor space for each occupant thereof.
- 6.2.8 On premise advertising signs are prohibited.
- 6.2.9 The owner shall provide a visual demarcation of the property lines.
- 6.2.10 The owner shall keep a report, detailing use of the home by recording the full name, address, phone number and vehicle license number of guests using the property. A copy of the report shall be provided to the Department upon request.
- 6.2.11 No more than two (2) vacation/private home rentals will be allowed on a parcel. More than two (2) vacation/private home rentals on the same parcel or on contiguous parcels under common ownership shall constitute a resort.
- 6.2.12 The Planning Commission may recommend conditions that will reduce the impacts of the proposed use on neighboring properties, public services, and nearby water bodies as well as other concerns including, but not limited to, public safety, and safety of guests. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of guests.
- 6.2.13 A vacation/private home rental shall be licensed by the County and shall meet the requirements of all statutes, rules, regulations, and ordinances
- 6.2.14 The Planning Commission may recommend noise standards in order to assist in reducing potential impacts on neighboring properties.
- 6.2.15 Websites and all other advertising of the rental property must be in compliance with the occupancy allowance and all other conditions per approved application.
- 6.2.16 The applicant shall keep on file with the County Environmental Services Department the name and telephone number of a contact person who is responsible for responding to questions or concerns regarding the operation of the vacation/private home rental. This information must be kept current. This information shall also be posted in a conspicuous location within the dwelling unit. The contact person must be available to accept phone calls on a 24 hour basis at all times that the vacation/private home rental is rented or occupied. The contact person must have a key to the vacation/private home rental and be able to respond to the vacation/private home rental within 60 minutes to address issues or must have arranged for another person to address issues within the same time frame.

- 6.2.17 Each vacation rental must have a property information handbook available for renters that include the name and contact information for the owner and/or caretaker; quiet hours as per approved IUP; maximum number of overnight occupants; maximum number of non-overnight occupants; property rules related to the use of outdoor features such as decks, patios, fire pit, sauna and other recreational facilities; list of conditions that were placed on the approved IUP; and a notice that all ordinance and IUP conditions will be enforced by the Kanabec County Sheriff's Office and the Kanabec County Environmental Services Department.

### **6.3 Agriculture Use Standards.**

- 6.3.1 Buffers.
  - 6.3.1.1. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local Soil and Water Conservation Districts or the Natural Resource Conservation Service, as provided by a qualified individual or agency.
  - 6.3.1.2. 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.
- 6.3.2 New animal feedlots are not allowed in shoreland. Expansions to existing feedlots or resumption of old feedlots are not allowed in shoreland.

### **6.4 Forest Management Standards.**

- 6.4.1 The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.
- 6.4.2 Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district.

- 6.5 Metallic Mining Standards.** Mining of metallic minerals and peat is not permitted within the shoreland districts of Kanabec County. Peat may be removed for purposes of road construction as designed by a professional engineer licensed in the State of Minnesota. No peat shall be stockpiled within any shoreland district.

## **7.0 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS**

- 7.1 Purpose.** To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- 7.2 Lot Area and Width Standards.** After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in Sections 7.25 and 7.26, subject to the following standards:
  - 7.2.1 Only lands above the ordinary high water level can be used to meet lot area and width standards;

- 7.2.2 Lot width standards must be met at both the ordinary high water level and at the building line;
- 7.2.3 The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;
- 7.2.4 Residential subdivisions with dwelling unit densities exceeding those in Sections 7.25 and 7.26 are allowed only if designed and approved as residential PUDs under Section 10.0 of this ordinance; and
- 7.2.5 Lake Minimum Lot Area and Width Standards

<b>Recreational Development – No Sewer</b>				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490
<b>Recreational Development – Sewer</b>				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245
<b>Natural Environment – No Sewer</b>				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	80,000	200	80,000	200

Natural Environment – Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	40,000	125	20,000	125

7.2.6 River/Stream Minimum Lot Width Standards. The minimum lot size for rivers and streams is 80,000 square feet. The lot width standards in feet are:

	Remote	Forested	Transition	Agricultural	Urban & Tributary	
					No Sewer	Sewer
	Lot Area(sf)	Lot Area (sf)	Lot Area (sf)	Lot Area (sf)	Lot Area (sf)	Lot Area (sf)
Single	300	200	250	150	100	75

### 7.3 Special Residential Lot Provisions.

7.3.1 Subdivisions of duplexes, triplexes, and quads must also meet the following standards:

- 7.3.1.1. Each building must be set back at least 200 feet from the ordinary high water level;
- 7.3.1.2. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
- 7.3.1.3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- 7.3.1.4. No more than 25 percent of a lake’s shoreline can be in duplex, triplex, or quad developments.

7.3.2 One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 7.2.5 and 7.2.6, provided the following standards are met:

- 7.3.2.1. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit;
- 7.3.2.2. A guest cottage must not cover more than five hundred (500) square feet of land surface and must not exceed 15 feet in height; and
- 7.3.2.3. 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.

7.3.3 Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:

- 7.3.3.1. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in item D;
- 7.3.3.2. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

<b>Controlled Access Lot Frontage Requirements</b>	
<b>Ratio of lake size to shore length (acres/mile)</b>	<b>Required percent increase in frontage</b>
Less than 100	25%
100 – 200	20%
201 – 300	15%
301 – 400	10%
Greater than 400	5%

- 7.3.3.3. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot; and
- 7.3.3.4. Covenants or other equally effective legal instruments must be developed that:
  - 7.3.3.4.1. Specify which lot owners have authority to use the access lot;
  - 7.3.3.4.2. Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;
  - 7.3.3.4.3. Limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water;
  - 7.3.3.4.4. Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and
  - 7.3.3.4.5. Require all parking areas, storage buildings, and other facilities to be screened by

7.3.3.4.6. vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

**7.4 Placement, Height, and Design of Structures.**

7.4.1 Placement of Structures and Sewage Treatment Systems on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following provisions:

7.4.1.1. OHWL Setbacks. Structures, impervious surfaces, and sewage treatment systems must meet the following setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 8.3 of this ordinance, may be set back a minimum distance of ten (10) feet from the OHWL:

7.4.1.2. Setback averaging. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;

	Structures		Sewage Treatment System
	No Sewer	Sewer	
<b>Lakes</b>			
	Setback from OHW (ft)	Setback from OHW (ft)	Setback from OHW (ft)
Natural Environment	150	150	150
Recreational Development	100	75	75
<b>Rivers and Streams</b>			
	Setback from OHW (ft)	Setback from OHW (ft)	Setback from OHW (ft)
Remote	200	200	150
Forested and Transition	150	150	100
Tributary	100	50	75

7.4.2 Building Standards

7.4.2.1. Primary Dwelling Size. All primary dwellings shall have a minimum floor area of at least five hundred (500) square feet. Additions to manufactured homes shall not be considered in determining area requirements.

- 7.4.2.2. Frost Free Footings. All dwellings, including manufactured homes, must be placed on frost free footings, foundations, pillars or engineered concrete slabs designed to withstand frost action.
  - 7.4.2.3. Manufactured Homes. Any manufactured home placed on a lot shall be a U. S. Department of Housing and Urban Development certified unit as evidenced by the HUD certification seal affixed to the unit and not more than 20 years old.
  - 7.4.2.4. Not more than one (1) principal dwelling shall be located on a lot, except as described in 7.32. In case of doubt or on any question of interpretation, the decision of the Environmental Services Department shall be final, subject to the right of appeal to the Board of Adjustment and Appeals.
  - 7.4.2.5. On conforming and nonconforming lots of record, structures normally considered to be accessory structures are permitted without a primary permitted use first being established, when all setbacks are met. When two lots are under same ownership and has a primary permitted structure located there on, and the structure is of a type normally subordinate to the primary dwelling accessory structures are permitted. Structures should be designed to be compatible with the principal building and general neighborhood environment.
- 7.4.3 Nuisances. Any visual appearance, noise, odor, heat, dust, vibration, smoke, air pollution, glare, electrical interferences, or other such objectionable influences, or the storage of refuse or disposal of wastes that are construed by the Environmental Services Department to be a menace or nuisance to the public health, safety or general welfare of the County, or to have a depressing influence upon property values in the area shall be prohibited.
- 7.4.3.1. The pollution of any well, stream, lake or body of water by sewage, industrial waste, or other substance is prohibited.
  - 7.4.3.2. All carcasses of animals shall be buried or destroyed or otherwise disposed of within forty-eight (48) hours after death.
  - 7.4.3.3. The ownership, possession or control of any unused appliances or other containers with doors which fasten automatically when closed and of sufficient size to retain any person, that are exposed and accessible to the public without the removal of the doors, lids, hinges, or latches or the locking thereof to prevent access by the public, is prohibited.
  - 7.4.3.4. No person in charge or control of any property shall allow any unlicensed, partially dismantled, inoperative, wrecked or junked vehicles to remain on the property longer than thirty (30) days where said vehicle is visible from a public road or adjacent residence.
  - 7.4.3.5. Alternate structures, landscaping, and fencing shall be reasonably maintained so as to avoid health or safety hazards and prevent degradation in the value of adjacent property.
  - 7.4.3.6. A property owner may store up to (2) two recreational vehicles, campers, travel trailers or other such vehicles on a lot, any more than (2) two would need to be screened from public view

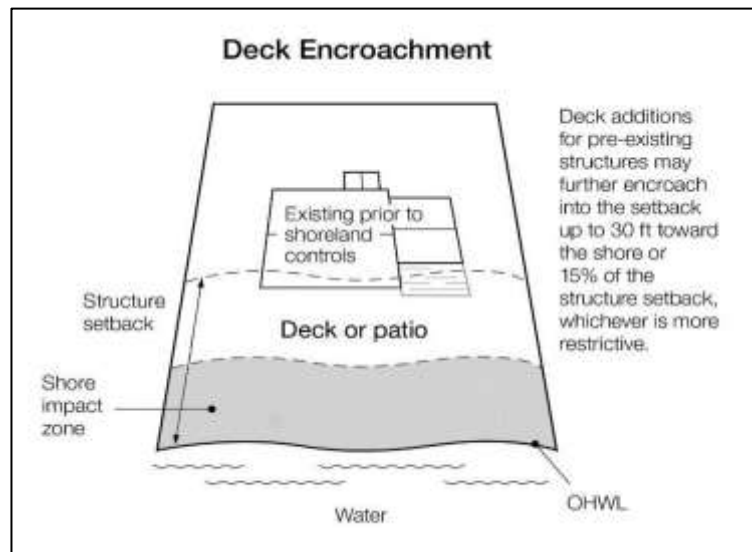
7.4.3.7. Setbacks of decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:

7.4.3.7.1. The structure existed on the date the structure setbacks were established;

7.4.3.7.2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

7.4.3.7.3. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or is no closer than 30 feet from the OHWL, whichever is more restrictive; and

7.4.3.7.4. The deck is constructed primarily of wood, and is not roofed or screened.



7.4.3.8. Additional structure setbacks. Structures must also meet the following setbacks, regardless of the waterbody classification:

Setback from:	Setback (ft)
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	30
Side lot lines	10



7.4.3.9. Bluff Impact Zones. Structures, impervious surfaces, and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

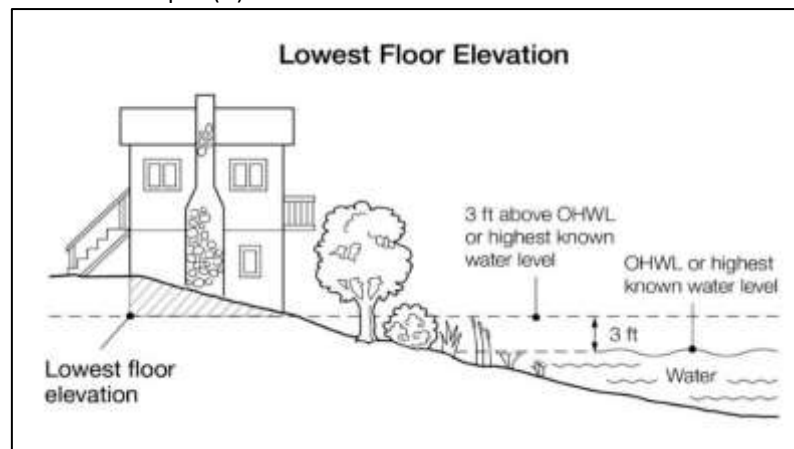
7.4.4 Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures must not exceed 25 feet in height.

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

7.4.5.1. 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;

7.4.5.2. For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. 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 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 Minnesota Rules, parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

7.4.5.3. If the structure is floodproofed instead of elevated under items A and B above, then it must be floodproofed in accordance with Minnesota Rules, part 6120.5900 Subp. 3 (D).



7.4.6 Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

## 7.5 Water Supply and Sewage Treatment.

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

- 7.5.2 Sewage treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Minnesota Rules, Chapters 7080 – 7081.

## **8.0 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES**

**8.1 Placement and Design of Roads, Driveways, and Parking Areas.** Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters and comply with the following standards:

- 8.1.1 Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
- 8.1.2 Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met;
- 8.1.3 Private facilities must comply with the grading and filling provisions of Section 9.3 of this ordinance; and
- 8.1.4 For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

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

- 8.2.1 Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
- 8.2.2 Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;
- 8.2.3 Canopies or roofs are not allowed on stairways, lifts, or landings;
- 8.2.4 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;
- 8.2.5 Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- 8.2.6 Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of subitems 7.21 to 7.25 and the requirements of Minnesota Rules, Chapter 1341.

8.2.7 Docks. At public boat ramps or launch areas, no swimming or sunbathing is allowed on either side of dock or ramp for 30'. No private docks or boat launching areas are allowed on county lands.

**8.3 Water-oriented Accessory Structures or Facilities.** Each lot may have one water-oriented accessory structure or facility if it complies with the following provisions:

- 8.3.1 The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. The structure or facility may include patios or detached decks not exceeding eight feet above grade at any point;
- 8.3.2 The structure or facility is not in the Bluff Impact Zone;
- 8.3.3 The setback of the structure or facility from the ordinary high water level must be at least ten(10) feet;
- 8.3.4 The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;
- 8.3.5 The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- 8.3.6 The roof may be used as an open-air deck with safety rails, but must not be enclosed or used as a storage area;
- 8.3.7 The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
- 8.3.8 Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 7.4.5 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.

**8.4 Home Occupations.** It is the purpose of this subdivision to provide for the use of the home as a place for the operation of a business or profession as an interim use provided the occupation is clearly secondary to the principal use of the home as a residence. All home occupations within the shoreland district shall require an interim use permit and shall meet the performance standards in section 8.4.1.

8.4.1 Performance Standards.

All home occupations shall conform to the following standards:

- 8.4.1.1. Conduct of the home occupation does not require alterations to the exterior of the residence, which substantially alter the appearance of the dwelling as a residence.
- 8.4.1.2. On-site parking shall be provided which is sufficient to accommodate the proposed occupation. On-site parking shall be on an improved surface (gravel, asphalt, recycle or concrete). Public streets and septic systems may not be used for calculating parking. Parking areas must be setback a minimum distance of five (5) feet from property lines.
- 8.4.1.3. Only those persons residing in the home and two other persons employed in the home occupation may be permitted as an interim use.

- 8.4.1.4. Signage consists of no more than one single or double-faced sign with a maximum of sixteen (16) square feet per side.
- 8.4.1.5. The activities, equipment and materials involved in the home occupation shall be conducted and contained within the home or accessory structure to the principal use; except in those cases when such activities, equipment and materials are not visible from a public road or adjacent residences. Such activities and items shall be screened by buildings or natural vegetation.
- 8.4.1.6. The home occupation shall not generate sewage of a nature or type that cannot be treated by a standard on-site sewage system, or hazardous wastes without an approved plan for off-site disposal.
- 8.4.1.7. Traffic from the proposed home occupation shall not cause a health, public safety or nuisance issue.

**8.5 Sale without Certificate Prohibited.** No owner or agent of owner shall sell by conveyance or contract for conveyance, or a lease of a term of three (3) years or more, any dwelling located within Shoreland District (S) without first providing a Certificate of Septic System Compliance to the buyer or lessee, prior to the time of transaction, or providing satisfactory agreements, as follows:

- 8.5.1 Escrow agreements are allowed as an alternative to an incomplete Certificate of Compliance provided they meet the following criteria:
  - 8.5.1.1. The seller(s) of the property as well as all other parties with title or interest to the property to be sold shall be clearly identified.
  - 8.5.1.2. The buyer(s) of the property shall be clearly identified.
  - 8.5.1.3. The escrow agent shall be clearly identified.
  - 8.5.1.4. The seller(s) or lessor(s) shall provide a written agreement with an installer, licensed for Kanabec County, Minnesota, for the installation of a septic system designed by a licensed designer for the project at that site.
  - 8.5.1.5. There shall be deposited pursuant to the escrow agreement, one and one-half (1 1/2) of the amount of the installation contract price as set forth in 8.5.1.4 above.
  - 8.5.1.6. The escrow agreement must clearly state the terms under which the escrow money is to be dispersed but only after a passing Certificate of Compliance is provided to the Environmental Services Department.
  - 8.5.1.7. A passing Certificate of Compliance on the septic system must be provided within ten (10) months of the escrow agreement.
  - 8.5.1.8. The escrow agreement must provide that in the event a passing Certificate of Compliance is not provided to the Environmental Services Department within 10 months of the date of the escrow agreement, that the Environmental Services Department may utilize said funds to bring about the systems compliance.
- 8.5.2 A Certificate of Compliance Agreement to Subject Property to Septic Compliance inspection, or an approved escrow agreement shall accompany the deed for recording. The County Recorder shall note on a copy of each deed when the required forms are not submitted. Nothing in this Section precludes the County Recorder from recording a deed.

## 9.0 VEGETATION AND LAND ALTERATIONS

**9.1 Purpose.** Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.

### 9.2 Vegetation Management.

9.2.1 Removal or alteration of vegetation must comply with the provisions of this subsection except for:

9.2.1.1. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;

9.2.1.2. The construction of public roads and parking areas if consistent with Section 8.1 of this ordinance;

9.2.1.3. Forest management uses consistent with Section 6.3 of this ordinance; and

9.2.1.4. Agricultural uses consistent with Section 6.2 of this ordinance.

9.2.2 Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 6.3 of this ordinance.

9.2.3 Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

9.2.3.1. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

9.2.3.2. Existing shading of water surfaces along rivers is preserved;

9.2.3.3. Cutting debris or slash shall be scattered and not mounded on the ground; and

9.2.3.4. Perennial ground cover is retained.

9.2.4 Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.

9.2.5 Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both per MN Statute 103E.021 "Buffer Law"

### 9.3 Grading and Filling.

9.3.1 Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 8.1 of this ordinance.

9.3.2 Permit Requirements.

9.3.2.1. Grading, filling and excavations necessary for the construction of structures and sewage treatment systems, if part of an approved permit, do not require a

separate grading and filling permit. However, the standards in Section 9.3.3 of this ordinance must be incorporated into the permit.

9.3.2.2. For all other work, a grading and filling permit is required for:

9.3.2.2.1. the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

9.3.2.2.2. the movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

9.3.3 Grading, filling and excavation activities must meet the following standards:

9.3.3.1. All land disturbance activities that require coverage of the State Construction Stormwater General Permit shall adhere to the provisions set forth in said permit and shall submit a copy of the stormwater pollution prevention plan to the Environmental Services Department.

9.3.3.2. All construction activity disturbing one half acre or more shall, at a minimum, develop a storm water pollution prevention plan that addresses erosion prevention and sediment control, with best management practices outlined in the latest version of the Minnesota Stormwater Manual published by Minnesota Pollution Control Agency.

9.3.3.3. Any development that results in one half to one acre of new impervious surface shall provide permanent stormwater treatment for increased runoff volume created by the new impervious surfaces with a rain garden, infiltration basin or other best management practice as outlined in the Minnesota Stormwater Manual.

9.3.3.4. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;

9.3.3.5. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:

9.3.3.5.1. Limiting the amount and time of bare ground exposure;

9.3.3.5.2. Using temporary ground covers such as mulches or similar materials;

9.3.3.5.3. Establishing permanent vegetation cover as soon as possible;

9.3.3.5.4. Using sediment traps, vegetated buffer strips or other appropriate techniques;

9.3.3.5.5. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;

9.3.3.5.6. Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued

slope stability and must not create finished slopes of 30 percent or greater;

9.3.3.5.7. Fill or excavated material must not be placed in bluff impact zones;

9.3.3.5.8. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G;

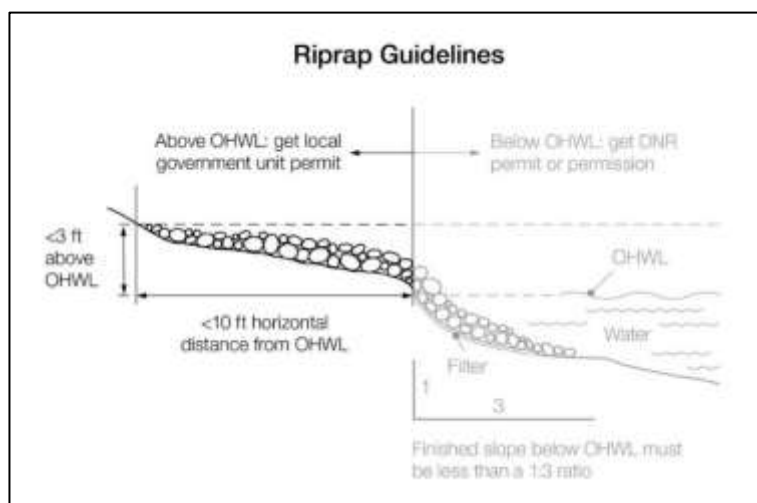
9.3.3.5.9. Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

9.3.3.6. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted with a land alteration permit if:

9.3.3.6.1. the finished slope does not exceed three feet horizontal to one foot vertical;

9.3.3.6.2. the landward extent of the riprap is within ten feet of the ordinary high water level; and

9.3.3.6.3. the height of the riprap above the ordinary high water level does not exceed three feet.



9.3.4 Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

#### 9.4 Stormwater Management.

9.4.1 General Standards:

9.4.1.1. When possible, existing natural drainage ways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

- 9.4.1.2. 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 as soon as possible and appropriate facilities or methods used to retain sediment on the site.
- 9.4.1.3. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
- 9.4.2 Specific Standards:
  - 9.4.2.1. Impervious surfaces of lots must not exceed 25 percent of the lot area.
  - 9.4.2.2. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.
  - 9.4.2.3. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

## 10.0 SUBDIVISION/PLATTING PROVISIONS

- 10.1 Purpose.** To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
- 10.2 Land suitability.** Each lot created through subdivision, including planned unit developments authorized under Section 11.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- 10.3 Consistency with other controls.** Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.
- 10.4 Water and Sewer Design Standards.**
  - 10.4.1 A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.
  - 10.4.2 Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.223 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.
  - 10.4.3 Lots that would require use of holding tanks are prohibited.
- 10.5 Information requirements.**
  - 10.5.1 Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;



- 10.5.2 The surface water features required in Minnesota Statutes, section 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;
- 10.5.3 Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- 10.5.4 Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- 10.5.5 Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
- 10.5.6 A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

**10.6 Dedications.** When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

**10.7 Platting.** All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

**10.8 Controlled Access Lots.** Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 7.3.3 of this ordinance.

## **11.0 PLANNED UNIT DEVELOPMENTS (PUDS) WITHIN MIXED USE ZONES**

**11.1 Purpose.** To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.

**11.2 Types of PUDs Permissible.** Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Section 7.2 of this ordinance is allowed if the standards in this Section are met.

**11.3 Processing of PUDs.** Planned unit developments must be processed as a conditional use. An expansion to an existing commercial PUD involving 5 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 11.5. Approval cannot occur until all applicable environmental reviews are complete.

**11.4 Application for a PUD.** The applicant for a PUD must submit the following documents prior to final action on the application request:

- 11.4.1 Site plan and/or plat showing:
  - 11.4.1.1. Locations of property boundaries;
  - 11.4.1.2. Surface water features;

- 11.4.1.3. Existing and proposed structures and other facilities;
  - 11.4.1.4. Land alterations;
  - 11.4.1.5. Sewage treatment and water supply systems (where public systems will not be provided);
  - 11.4.1.6. Topographic contours at two-foot intervals or less; and
  - 11.4.1.7. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).
- 11.4.2 Deed restrictions, covenants, permanent easements or other instruments that:
- 11.4.2.1. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
  - 11.4.2.2. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 11.6 of this ordinance.
- 11.4.3 A master plan/site plan describing the project and showing floor plans for all commercial structures.
- 11.4.4 Additional documents necessary to explain how the PUD will be designed and will function.

**11.5 Density Determination.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

- 11.5.1 Step 1. Identify Density Analysis Tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

Classification	Tier Depth	
	No Sewer (ft)	Sewer (ft)
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
All Rivers	300	300

- 11.5.2 Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.

- 11.5.3 Step 3. Determine Base Density:

- 11.5.3.1. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area

is not specified, divide the tier width by the minimum single residential lot width.

11.5.3.2. For commercial PUDs:

- (1) Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.
  - (a) For dwelling units, determine the average inside living floor area of dwelling units in each tier:
    - I. For average floor area less than 200 sf, use 200 sf.
    - II. For average floor area greater than 1,500 sf, use 1,500 sf.
  - (b) For dwelling sites (campgrounds), determine the area of each dwelling site as follows:
    - I. For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.
    - II. For recreational vehicles, campers or tents, use 400 sf.
- (2) Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in Section 11.5.3

Inside Living Floor Area or Dwelling Site Area (sf)	Floor Area/Dwelling Site Area Ratio		
	Tributary Rivers	Recreational Development Lakes Forested and Transition Rivers	Natural Environment Lakes Remote Rivers
200	.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	.150	.075	.038

- (3) Multiply the suitable area within each tier determined in Section 11.5.2 by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

- (4) Divide the total floor area or dwelling site area for each tier calculated in Section 11.5.3 by the average inside living floor area for dwelling units or dwelling site area determined in 11.5.3. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
- 11.5.3.3. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any tier closer to the waterbody.
- 11.5.3.4. All PUDs with densities at or below the base density must meet the design standards in Section 11.6

**11.6 Design Criteria.** All PUDs must meet the following design criteria.

11.6.1 General Design Standards.

- 11.6.1.1. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 7.5 of this ordinance. Sewage treatment systems must meet the setback standards of Section 7.5.2 of this ordinance.
- 11.6.1.2. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- 11.6.1.3. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 7.3 and 7.4:
- 11.6.1.4. Shore recreation facilities:
  - 11.6.1.4.1. Must be centralized and located in areas suitable for them based on a suitability analysis.
  - 11.6.1.4.2. 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).
  - 11.6.1.4.3. 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.
- 11.6.1.5. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- 11.6.1.6. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- 11.6.1.7. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 8.3 of this ordinance and are centralized.

11.6.2 Open Space Requirements.

11.6.2.1. Open space must constitute at least 50 percent of the total project area and must include:

11.6.2.1.1. Areas with physical characteristics unsuitable for development in their natural state;

11.6.2.1.2. Areas containing significant historic sites or unplatted cemeteries;

11.6.2.1.3. Portions of the shore impact zone preserved in its natural or existing state as follows:

(a) For existing residential PUD's, at least 50 percent of the shore impact zone

(b) For all commercial PUD's, at least 50 percent of the shore impact zone.

11.6.2.2. Open space may include:

11.6.2.2.1. 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; and

11.6.2.2.2. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

11.6.2.3. Open space shall not include:

11.6.2.3.1. Dwelling units or sites and residential lots; road rights-of-way, or land covered by road surfaces; parking areas, or structures, except water-oriented accessory structures or facilities; and land below the Ordinary High Water Level

11.6.2.3.2. Commercial facilities or uses.

11.6.3 Open Space Maintenance and Administration Requirements.

11.6.3.1. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:

11.6.3.1.1. Commercial uses (for residential PUD's);

11.6.3.1.2. Vegetation and topographic alterations other than routine maintenance;

11.6.3.1.3. Construction of additional buildings or storage of vehicles and other materials; and

11.6.3.1.4. Uncontrolled beaching of watercraft.

- 11.6.3.2. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:
  - 11.6.3.2.1. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
  - 11.6.3.2.2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
  - 11.6.3.2.3. Assessments must be adjustable to accommodate changing conditions; and
  - 11.6.3.2.4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- 11.6.4 Erosion Control and Stormwater Management.
  - 11.6.4.1. Erosion control plans must be developed and must be consistent with the provisions of Section 9.3.3 of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
  - 11.6.4.2. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area, except that 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 9.4 of this ordinance.

**11.7 Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:

- 11.7.1 Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;
- 11.7.2 Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;
- 11.7.3 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:
  - 11.7.3.1. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
  - 11.7.3.2. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and
  - 11.7.3.3. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

- 11.7.4 Existing dwelling unit or dwelling site densities that exceed standards in Section 10.5 of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the 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.

## 12.0 FEES

- 12.1 **Fees.** Fees will be as established by resolution of the County Board.
- 12.2 **Penalties.** Penalties for pre-construction without notification or permit application will be double the permit costs in effect at that time.

## 13.0 ENFORCEMENT

- 13.1 **Circumstances Constituting a Violation/Violations Misdemeanors.** Any person, firm, 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 established in connection with the granting of Variances, land use permits, land alteration and grading permits, Conditional Use and Interim Use Permits, or fails to comply with restoration orders, or who knowingly makes any false statement in any document required to be submitted under the provisions hereof, shall be considered to be in violation of the ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days, or both. Each day that a violation continues shall constitute a separate offense.
- 13.2 **Administrative Enforcement upon Determination of a Violation.** Whenever the Environmental Services Department determines that any work, activity, construction, installation or use is being done or conducted contrary to the provisions of this Ordinance or any permit issued pursuant to this ordinance, the Environmental Services Department may issue a stop work order directing such work, activity, construction, installation or use be stopped. The Environmental Services Department will notify the owner of the property and/or the permit holder of the violation through the stop work order, which will be sent or delivered to the owner and/or permit holder. The stop work order will identify, at a minimum, the following:
  - 13.2.1 The nature of the violation;
  - 13.2.2 The action required on the part of the property owner and/or permit holder to eliminate or resolve the violation;
  - 13.2.3 A reasonable time in which the violation must be remedied; and
  - 13.2.4 Inform the property owner and/or permit holder of their right to appeal the order and determination of the Environmental Services Department to the Board of Adjustment
    - 13.2.4.1. When any work has been stopped by the Environmental Services Department under a stop work order, it shall not again be resumed until the reason for the work stoppage has been completely satisfied.

- 13.2.4.2. Violation of a stop work order issued under this ordinance shall constitute a misdemeanor violation.
- 13.2.4.3. The failure of a property owner and/or permit holder to appeal the stop work order of the Environmental Services Department shall result in the stop work order being considered final under this ordinance.
- 13.2.4.4. If compliance with the stop work order is not obtained within a reasonable period of time, the Environmental Services Department will report such violations to the County Attorney, who shall take appropriate action on the matter.

**13.3 Civil Enforcement Procedures.** In the event of a violation or a threatened violation of this Ordinance, any permit issued under this ordinance, or any regulation or other official control adopted by the Board, the Environmental Services Department, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct, or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

**13.4 Other Enforcement Options and Remedies Available.** None of the enforcement options set forth in this section are meant to be the sole or exclusive means of enforcement procedures that the County may follow. The administrative enforcement process and the other enforcement procedures referred to in this section are in addition to any other right, remedy, or cause of action the County may have under Minnesota law to take actions, either civilly or criminally, to eliminate or resolve violations of this Ordinance. All such rights, remedies, and causes of action may, in the County's sole discretion, be exercised separately or in conjunction with one another and with such frequency as the County deems appropriate.

**13.5 Application to County Personnel.** The failure of any officer or employee of the County to perform any duty imposed by this ordinance shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.



## **14.0 CONSIDERATIONS FOR TOWNSHIP ZONING**

Townships may adopt shoreland management controls under authority of Minn. Stat. §394.33, subd. 1, if the controls are not inconsistent with, or less restrictive than, the controls adopted by the county in which the township is located. This must be accomplished in accordance with the following conditions:

For the purposes of Minnesota Regulations, Parts 6120.2500 to 6120.3900, shoreland management controls adopted by townships will only be considered to be consistent with county controls if they cover the same full range of shoreland management provisions covered by the county controls, contain dimensional standards at least as restrictive as those in the county controls, and do not allow land uses in particular areas that are not allowed under the county's official controls.

The township must demonstrate to the county board that its proposed ordinance and administration is at least as restrictive as the county's prior to final adoption by the township. This will include, at a minimum, that the township has the staff necessary to administer the ordinance, has sufficient building permit application and certification forms and procedures, and an enforcement mechanism to enforce the ordinance should violations occur.

Townships must provide for administration and enforcement of shoreland management controls at least as effective as county implementation. Townships that adopt shoreland controls must provide the notifications in Section 3.7.8 of the sample ordinance to the Commissioner or the Commissioner's designee and to the zoning official of the county.

After adequate shoreland management controls are adopted by township, property owners must only obtain necessary permits and approvals as required in the township shoreland management controls. Property owners do not have to obtain similar permits or approvals under the county's shoreland controls.

The Commissioner of the Department of Natural Resources must also approve a township's shoreland ordinance. The DNR and the respective county should work together to make a joint determination as to whether the township's ordinance is in compliance with state and county standards.

SUBSURFACE SEWAGE TREATMENT  
SYSTEM ORDINANCE  
KANABEC COUNTY

COUNTY ORDINANCE #6

February 12, 2014

# **Kanabec County**

## **Ordinance #6**

### **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 (and mid-sized) sewage treatment systems (SSTS) in unsewered incorporated and unincorporated areas of Kanabec County (hereinafter “the County”) except incorporated area which has itself adopted standards that comply with Minn. Stat. §115.55 and are at least as strict as this ordinance: 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) Promotes the health, safety and welfare of the public pursuant to the Minn. Stat. §§115.55, 145A.05, 375.51, 394.21-394.37, and 471.82 and in furtherance of county policy stated in the “Comprehensive Plan” and the County Shoreland Zoning Ordinance.

#### **ARTICLE I PURPOSE AND AUTHORITY**

##### **SECTION 1.0 PURPOSE AND INTENT**

The purpose of this ordinance shall be to provide minimum standards for and the regulation of individual (and mid-size) subsurface sewage treatment systems (SSTS) and the treatment and dispersal including the proper location, design, construction, operation, maintenance and repair to protect surface water and ground water from contamination by human sewage and waterborne household and commercial waste; to protect the public’s health and safety, and prevent or eliminate the development of public nuisances.

##### **SECTION 2.0 AUTHORITY**

This ordinance is adopted pursuant to Minn. Stat. §115.55; Minn. Stat. §§145A.01 through 145A.08; Minn. Stat. §375.51; or successor statutes, and Minnesota Rules, Chapters 7080, 7081, 7082 and 7083; or successor rules.

##### **SECTION 3.0 EFFECTIVE DATE**

The provisions set forth in this ordinance shall become effective on February 12, 2014.

## **ARTICLE II GENERAL PROVISIONS**

### **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.

### **SECTION 2.0 JURISDICTION**

The jurisdiction of this ordinance shall include all lands of the County except for incorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by ordinance within their incorporated jurisdiction, which is at least as strict as this ordinance and has been approved by the County.

### **SECTION 3.0 ADMINISTRATION**

#### **3.01 COUNTY ADMINISTRATION**

The County Environmental Services Department shall administer the SSTS program and all provisions of this ordinance. At appropriate times, the County shall review and revise and update this ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

#### **3.02 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.

### **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.

### **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 onsite or cluster treatment system regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

**ARTICLE III GENERAL REQUIREMENTS**

**SECTION 1.0**

**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 ownership.

**1.03 SSTS on Lots Created After January 23, 1996**

All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp.3 through 7.

**SECTION 2.0 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT**

**2.01 SSTS Capacity Expansions**

Expansion of an existing SSTS also must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this ordinance at the time of the expansion.

**2.02 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 within 12 months of receipt of a Notice of Noncompliance.

**2.03 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 10 months of receipt of a Notice of Noncompliance.

**2.04 Abandonment**

Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rule 7080.2500.

**SECTION 3.0 SSTS IN FLOODPLAINS**

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rule 7080.2270 and all relevant local requirements are met.

**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 (hereinafter “CFR”), Title 40, Part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR Title 40, Part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

**SECTION 5.0 SSTS PRACTITIONER LICENSING**

No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by the Minnesota Pollution Control Agency (hereinafter “MPCA”) in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.

**SECTION 6.0 PROHIBITIONS**

Any surface discharging system must be permitted under the National Pollution Discharge Elimination program by the MPCA

**ARTICLE IV SSTS STANDARDS**

**SECTION 1.0 STANDARDS ADOPTED BY REFERENCE**

The County hereby adopts by this reference Minnesota Rules Chapters 7080 and 7081 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County’s right or ability to adopt local standards that are in compliance with Minn. Stat. §115.55.

**SECTION 2.0 AMENDMENTS TO THE ADOPTED STANDARDS**

**2.01 List of Adopted Standards**

All new and upgraded subsurface sewage treatment systems for individual dwelling shall be sized for Type I dwelling

**2.02 Determination of Hydraulic Loading Rate and SSTS Sizing**

Either Table IX or Table IXa from Minnesota Rule 7080.2150, Subp. 3(E) and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this ordinance.

## **2.03 Compliance Criteria**

### **Compliance Criteria for Existing SSTS**

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 Minnesota Rule 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 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. 7080.1500, Subp. 4.

All other system compliance shall be as defined in Minnesota Rules 7080.1500, Subp. 1-6.

## **2.04 Holding Tanks**

Holding tanks may be used for single family homes and other buildings with limited water use under the following conditions:

- 1) The owner shall install a holding tank in accordance with Minnesota Rules 7080.2290.
- 2) The owner shall maintain a valid contract with a licensed liquid waste hauler to pump and haul the holding tank to a licensed treatment facility.
- 3) The holding tank shall be regularly pumped per a schedule agreed upon by the permitting entity and the licensed liquid waste hauler.
- 4) The pumper shall certify each date the tank is pumped and the volume of the liquid waste removed and report to the permitting entity.

## **SECTION 3.0 VARIANCES**

### **3.01 Variance Requests**

A property owner may request a variance from the standards as specified in this ordinance pursuant to county policies and procedures.

### **3.02 Affected Agency**

Variations that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency.

### **3.03 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.

## **ARTICLE V SSTS PERMITTING**

### **SECTION 1.0 PERMIT REQUIRED**

It is unlawful for any person to construct install modify, replace, or operate a subsurface sewage treatment system without the appropriate permit from the Environmental Services Department, Kanabec County.

## **SECTION 2.0 CONSTRUCTION PERMIT**

A Construction Permit shall be obtained by the property owner or an agent of the property owner from the county prior to the installation, construction, replacement, modification, alteration, 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).

### **2.01 Activities Requiring a Construction Permit**

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

### **2.02 Activities Not Requiring a Permit**

A Construction Permit is not required for minor repairs or replacement 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 Permit Application Requirements**

Construction Permit applications shall be made on forms provided by the Environmental Services Department and signed by the applicant/applicant's agent. The applications shall include the documents listed in items A through E below.

- A. Name, mailing address, telephone number, and email address.
- B. Property Identification Number and address or other description of property location.
- C. Site Evaluation Report as described in Minnesota Rules 7080.1730
- D. Design Report as described in Minnesota Rules 7080.2430.
- E. Management Plan as described in Minnesota Rules 7082.0600. B. Monitoring and Disposal Contract.

### **2.04 Application Review and Response**

The Environmental Services Department shall review a permit application and supporting documents within fifteen (15) working days from the date of receipt of a satisfactorily completed application. Upon satisfaction that the proposed work will conform to the provisions of this ordinance, the Environmental Services Department shall issue a written permit authorizing construction of the SSTS as designed. In the event that for any reason the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial. The Environmental Services Department shall complete the review of the amended application within (15) working days of receipt of the amended application. If the permit applications is incomplete or does not meet the requirements of this ordinance the Environmental Services Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.



## **2.05 Permit Expiration**

The Construction Permit is valid for a period of no more than (one) year from its date of issue, unless it is extended in accordance with this section or construction has been completed satisfactorily, whichever is shorter. Satisfactory completion of construction shall be determined by receipt a signed certification that the construction or installation of the system was completed in substantial conformance to the approved design documents by a qualified employee of the Environmental Services Department or a licensed inspection business, which is authorized by the Environmental Services Department and independent of the owner and the SSTS installer.

## **2.06 Extensions and Renewals**

The Environmental Services Department may grant an extension of the Construction Permit if the construction has commenced prior to the original expiration date of the permit. (The permit may be extended for a period of no more than (6) months.

## **2.07 Suspension or Revocation**

The Environmental Services Department may suspend or revoke a Construction Permit issued under this section for any false statements, misrepresentations of facts on which the Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Construction Permit is obtained.

## **SECTION 3.0 OPERATING PERMIT**

### **SSTS Requiring an Operating Permit**

An operating permit shall be required for all systems installed under Minnesota Rules 7080.2290, 7080.2350 and 7080.2400 and Chapter 7081.

## **SECTION 4.0 ABANDONMENT CERTIFICATION**

### **4.01 Purpose**

The purpose of the System Abandonment Certification is to ensure that a treatment system no longer in service is abandoned within a reasonable time following decommissioning and in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.

### **4.02 Abandonment Requirements**

- A. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this ordinance shall be prohibited.
- B. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Environmental Services Department.

- C. Abandonment shall be completed in accordance with Minnesota Rules 7080.2500. No prior notification of the Environmental Services Department of an owner's intent to abandon a system is necessary.
- D. A report of abandonment certified by the licensed installation business shall be submitted to the Environmental Services Department. The report shall include:
  - (1) Owner's name and contact information
  - (2) Property address
  - (3) The reason(s) for abandonment
  - (4) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

#### **4.03 Abandonment Certificate**

Upon receipt of an abandonment report and verification that the SSTS has been abandoned according to the requirements of this ordinance, the Environmental Services Department shall issue an abandonment certificate. If the abandonment is not completed according to the requirements of this ordinance the County shall notify the owner of the SSTS of the deficiencies, which shall be corrected within (30) calendar days.

## **ARTICLE VI MANAGEMENT PLANS**

### **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.

### **SECTION 2.0 MANAGEMENT PLAN REQUIREMENTS**

#### **2.01 SSTS Requiring Management Plans**

Management plans are required for all new or replacement SSTS as described in parts 7080.210 to 7080.2400. The management plan shall be submitted to the Environmental Services Department with the construction permit application for review and approval. The Environmental Services Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

#### **2.02 Required Contents of a Management Plan**

Management plans shall include (*Minnesota Rules, Chapter 7082.0600, Subp.1*):

- 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 Environmental Services 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.

**2.03 Requirements for Systems not Operated under a Management Plan** (*Minnesota Rules, Chapter 7082.0100, Subp. 3.(L)*)

SSTS that are not operated under a management plan or operating permit must inspect treatment tanks and remove solids if needed every three years. "Solids must be removed when their accumulation meets the limit described in Minnesota Rules 7080.2450.

## **ARTICLE VII COMPLIANCE MANAGEMENT**

### **SECTION 2.0 COMPLIANCE INSPECTION PROGRAM**

#### **2.01 Compliance Inspection**

- A. SSTS compliance inspections must be performed as defined in Minnesota Rules 7082.0700 Inspection Program for Subsurface Sewage Treatment Systems.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

#### **2.02 New Construction or Replacement**

- A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081. SSTS found not to be in compliance with 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.
- B. It is the responsibility of the SSTS owner or the owner's agent to notify the Environmental Services Department two (2) calendar days prior to any permitted work on the SSTS.
- C. A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Environmental Services Department if the system was built in accordance with the applicable requirements as specified in the construction permit.
- D. Certificates of compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the Environmental Services Department finds evidence of noncompliance.

#### **2.03 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; or
  - (2) Upon receipt of a complaint or other notice of a system malfunction.

- B. Compliance inspections for existing SSTS shall be reported on inspection report forms provided by the PCA. Compliance inspections of existing SSTS shall meet the requirements for Minnesota Rules, Chapter 7082.0700, Subp. 4(B). Vertical separation disputes must follow the procedure described in 7080.0700, Subp. 5.
- C. The certificate of compliance or notice of noncompliance must be submitted to the Department and the owner or owner's agent no later than (15) calendar days after the date the inspection was performed.
- D. Certificates of compliance for existing SSTS shall remain valid for (three) years from the date of issue unless the Department finds evidence of noncompliance.
- E. 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 VIII ENFORCEMENT**

### **SECTION 1.0 VIOLATIONS**

#### **1.01 Cause to Issue a Notice of Violation**

Any person who violates any of the provisions of this ordinance or who makes any false statement on a Certificate of Compliance shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both as defined by law.

#### **1.02 Notice of Violation**

The Environmental Services Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this ordinance. The notice of violation shall contain:

- A. A statement documenting the findings of fact determined through observations, inspections, or investigations;
- B. A list of specific violation(s) of this ordinance;
- C. Specific requirements for correction or removal of the specified violation(s); and
- D. A mandatory time schedule for correction, removal and compliance with this ordinance.

### **SECTION 2.0 PROSECUTION**

In the event of a violation of this ordinance, in addition to other remedies, the Kanabec County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

### **SECTION 3.0 STATE NOTIFICATION OF VIOLATION**

In accordance with state law, the Environmental Services Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this ordinance.

## **ARTICLE IX 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 X 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.

## **ARTICLE XI 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 XII 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 XIII ORDINANCE REPEALED**

The Kanabec County previous ordinance for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

## **ARTICLE XIV ADOPTION**

The Kanabec County Subsurface Sewage Treatment Program Ordinance is hereby adopted by the Kanabec County Board of Commissioners on the Twelve day of February, 2014

**Chairperson, Kanabec County Board of Commissioners ATTEST:**

**EFFECTIVE DATE: February 12, 2014**

Office of the  
**County Coordinator**  
Patrick Christopherson, County Coordinator  
18 North Vine Street, Suite 181  
Mora, MN 55051  
Telephone: 320-679-6440 FAX: 320-679-6441

## **Proceedings of the County Board**

State of Minnesota  
County of Kanabec  
Office of the County Coordinator  
Mora, Kanabec County, Minnesota  
Minutes of the County Board Held: February 12, 2014

### **Certification**

I, the undersigned, being the duly appointed recording officer of the County of Kanabec, State of Minnesota, certify that the information herein as approve in Board Resolution 18 – 02/12/14 has been carefully compared with the original records of Board of Commissioners, Kanabec County, Minnesota, those records being in my custody and on file in the Coordinator’s Office, and is a true and correct copy of these minutes.

Patrick Christopherson, Kanabec County Coordinator

**ORDINANCE NUMBER 8**  
**KANABEC COUNTY, MINNESOTA**

AN ORDINANCE PROHIBITING MINORS FROM PREMISES LICENSED FOR “ON SALE” OF INTOXICATING AND NON-INTOXICATING LIQUOR AFTER CERTAIN HOURS AND REQUIRING LICENSED PREMISES TO BE VACATED AFTER CERTAIN HOURS.

THE COUNTY BOARD OF KANABEC COUNTY ORDAINS:

Subdivision #1 – Definitions: For the purpose of this Ordinance the following definitions shall apply;

1. “Licensed Premises” means any premises licensed by the County of Kanabec for the sale of non-intoxicating malt liquor and for the sale of intoxicating liquor on the premises.
2. “Minor” shall mean any person under the age of 19 years.
3. “Licensee” means the holder of a license for a licensed premise.

Subdivision #2 – Prohibition:

1. No minor unaccompanied by a parent or legal guardian shall be present or shall be permitted to be resented by any licensee in any room where liquor or non-intoxicating malt liquor is being consumed on any licensed premises after 10:00 o’clock P.M. on any day of the week.
2. All persons shall vacate and the licensee shall cause to be vacated, any and all licensed premises, except for employees or agents, between the hours of 2:00 o’clock A.M. and the time at which sales begin to be permitted under Sections 340.034 and/or 340.14 Subdivision #1, Minnesota Statutes.

Subdivision #3 – Violation:

1. Violation of this Ordinance shall be punishable by a maximum fine of \$300.00, or 90 days imprisonment, or both, for each offense thereunder, in addition to revocation of the license.

Subdivision #4

1. Nothing in this Ordinance is intended to permit any sales of liquor or non-intoxicating liquor which would not otherwise be permitted by law.

Subdivision #5 – Effective date:

1. This Ordinance shall be in full force and effect from and after its passage and approval.

**ORDINANCE NO. 9**

**FLOOD PLAIN MANAGEMENT  
ORDINANCE**

**FOR**

**KANABEC COUNTY, MINNESOTA**

**AUGUST, 1990**



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## **FLOOD PLAIN MANAGEMENT ORDINANCE**

### **SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE**

**1.1 Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 104 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the County of Kanabec, Minnesota, does ordain as follows:

#### **1.2 Findings of Fact:**

**1.21** The flood hazard areas of Kanabec County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

**1.22** Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

**1.3 Statement of Purpose:** It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by provisions contained herein.

### **SECTION 2.0 GENERAL PROVISIONS**

**2.1 Lands to Which Ordinance Applies:** This ordinance shall apply to all lands within the jurisdiction of Kanabec County shown on the Official Zoning.

\*A Flood Boundary and Floodway Map and a Flood Insurance Rate Map have been published for the community. Map and/or attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

**2.2 Establishment of Official Zoning Map:** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this ordinance. The attached material shall include the Flood Insurance

Study for the County of Kanabec prepared by the Federal Insurance Administration dated May, 1978, and the Flood Boundary and Floodway Map and Flood Insurance Rate Map dated November 1, 1978 therein. The Official Zoning Map shall be on file in the Office of the Kanabec County Auditor and the Zoning Administrator.

**2.3 Regulatory Flood Protection Elevation:** The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

#### **2.4 Interpretation:**

**2.41** 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.

**2.42** The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

**2.5 Abrogation and Greater Restrictions:** 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. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

**2.6 Warning and Disclaimer of Liability:** This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of County of Kanabec or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there-under.

**2.7 Sever-ability:** 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.

**2.8 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 this Ordinance its most reasonable application.

**2.811 Accessory Use or Structure** – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**2.812 Basement** – means any area of a structure, including crawl spaces, having its floor or base sub-grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

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

**2.814 Equal Degree of Encroachment** – a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

**2.815 Flood** – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

**2.816 Flood Frequency** – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

**2.817 Flood Fringe** – that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Kanabec County.

**2.818** Flood Plain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

**2.819** Flood-Proofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

**2.820** 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.

**2.821** Obstruction – any dam, wall wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

**2.822** Principal Use or Structure – means all uses or structures that are not accessory uses or structures.

**2.823** 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.

**2.824** Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

**2.825** Regulatory Flood Protection Elevation – The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**2.826** Structure – anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 9.31 of the ordinance and other similar items.

**2.827** Variance – means a modification of a specific permitted development standard required in an official control including this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular practical difficulty or unique circumstance as defined and elaborated upon in a community’s respective planning and zoning enabling legislation.

## **SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS**

### **3.1 Districts:**

**3.11** Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in Section 2.2.

**3.12** Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in Section 2.2.

**3.13** General Flood Plain District. The General Flood Plain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map adopted in Section 2.2.

**3.2 Compliance:** No new structures or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Sections 4.0, 5.0, and 6.0 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

**3.21** New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 9.0;



**3.22** Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 11.0; and

**3.23** As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 10.0 of this Ordinance.

## **SECTION 4.0 FLOODWAY DISTRICT (FW)**

### **4.1 Permitted Uses:**

**4.11** General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

**4.12** Industrial-commercial loading areas, parking areas, and airport landing strips.

**4.13** Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

**4.14** Residential lawns, gardens, parking areas, and play areas.

### **4.2 Standards for Floodway Permitted Uses:**

**4.21** The use shall have a low flood damage potential.

**4.22** The use shall be permissible in the underlying zoning district if one exists.

**4.23** The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

### **4.3 Conditional Uses:**

**4.31** Structures accessory to the uses listed in 4.1 above and the uses listed in 4.32-4.38 below.

**4.32** Extraction and storage of sand, gravel, and other materials.

**4.33** Marinas, boat rentals, docks, piers, wharves, and water control structures.

**4.34** Railroads, streets, bridges, utility transmission lines and pipelines.

**4.35** Storage yards for equipment, machinery, or materials.

**4.36** Placement of fill

**4.37** Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 9.3 of this Ordinance.

**4.38** Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

### **4.4 Standards for Floodway Conditional Uses:**

**4.41** All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

**4.42** All floodway Conditional Uses shall be subject to the procedures and standards contained in Section 10.4 of this Ordinance.

**4.43** The Conditional Use shall be permissible in the underlying zoning district if one exists.

**4.44** Fill:

a. Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

b. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

c. As an alternative, and consistent with Subsection b immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

**4.45** Accessory Structures:

a. Accessory structures shall not be designed for human habitation.

b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,

2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

c. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing

classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate.

1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
2. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

**4.46 Storage of Materials and Equipment:**

- a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

**4.47** Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

**4.48** A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

**SECTION 5.0 FLOOD FRINGE DISTRICT (FF)**

**5.1 Permitted Uses:** Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe “Permitted Uses” listed in Section 5.2 and the standards for all Flood Fringe “Permitted and Conditional Uses” listed in Section 5.5.

## **5.2 Standards for Flood Fringe Permitted Uses:**

**5.21** All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

**5.22** As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Section 4.45 (c).

**5.23** The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with Section 5.21 of this ordinance.

**5.24** The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

**5.25** The provisions of Section 5.5 of this Ordinance shall apply.

**5.3 Conditional Uses:** Any structure that is not elevated on fill or flood proofed in accordance with Section 5.21-5.22 or any use of land that does not comply with the standards in Section 5.23-5.24 shall only be allowable as a Conditional Use.

## **5.4 Standards for Flood Fringe Conditional Uses:**

**5.41** Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1. The enclosed area is above-grade on at least one side of the structure; 2. is designed to internally flood and is constructed with flood resistant materials; and 3. is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(a) Design and Certification – The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(b) Specific standards for Above-grade, Enclosed Areas – Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(1) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

**5.42** Basements, as defined by Section 2.812 of this Ordinance, shall be subject to the following:

(a) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

(b) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Section 5.42 of this Ordinance.

**5.43** All areas on non residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of bouyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

**5.44** When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

**5.45** Storage of Materials and Equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

**5.46** The provisions of Section 5.5 of this Ordinance shall also apply.

### **5.5 Standards for All Flood Fringe Uses:**

**5.51** All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

**5.52** Commercial Uses – accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

**5.53** Manufacturing and Industrial Uses – measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be lower elevations subject to requirements set out in Section 5.52 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

**5.54** Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the Special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation – FEMA's requirements incorporate specific fill compaction and side slope



protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designated will be requested.

**5.55** Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

**5.56** Standards for travel trailers and travel vehicles are contained in Section 9.3.

**5.57** All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

## **SECTION 6.0 GENERAL FLOOD PLAIN DISTRICT**

### **6.1 Permissible Uses:**

**6.11** The uses listed in Section 4.1 of this Ordinance shall be permitted uses.

**6.12** All other uses shall be subject to the floodway/flood fringe elevation criteria pursuant to Section 6.2 below. Section 4.0 shall apply if the proposed use is in the Floodway District and Section 5.0 shall apply if the proposed use is in the Flood Fringe District.

### **6.2 Procedures for Floodway and Flood Fringe Determinations within the General Flood Plain District.**

**6.21** Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.

(a) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

(b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

(c) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

**6.22** The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 – 6120.6200 shall be followed in this expert elevation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(a) Estimate the peak discharge of the regional flood.

(b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

**6.23** The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The

Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Governing Body shall process the permit application consistent with the applicable provisions of Section 4.0 and 5.0 of this Ordinance.

## **SECTION 7.0 SUBDIVISIONS**

**7.1 Review Criteria:** No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below -the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents.

**7.2 Floodway/Flood Fringe Determinations in the General Flood Plain District:** In the General Flood Plain District, applicants shall provide the information required in Section 6.2 of this Ordinance to determine the 100 - year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

**7.3 Removal of Special Flood Hazard Area Designation:** The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

## **SECTION 8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES**

**8.1 Public Utilities.** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood - proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

**8.2 Public Transportation Facilities.** Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 4.0 and 5.0 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

**8.3 On-site Sewage Treatment and Water Supply Systems:** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

## **SECTION 9.0 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.**

**9.1** New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7.0 of this Ordinance.

**9.2** The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 5.0 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5.51, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

**9.21** All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

**9.3** Travel trailers and travel vehicles that do not meet the exemption criteria specified in Section 9.31 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 9.33-9.34 below.

**9.31** Exemption - Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 9.32 below and further they meet the following criteria:

- (a) Have current licenses required for highway use.
- (b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
- (c) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

**9.32** Areas Exempted For Placement of Travel/Recreational Vehicles:

- (a) Individual lots or parcels of record.
- (b) Existing commercial recreational vehicle parks or campgrounds.
- (c) Existing condominium type associations.

**9.33** Travel trailers and travel vehicles exempted in Section 9.31 lose this exemption when development occurs on the parcel exceeding \$100.00 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be

treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 4.0 and 5.0 of this Ordinance.

**9.34** New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

(a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 5.51 of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

(b) All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of 10.4 of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate the adequate time and personnel exist to carry out the evacuation. All attendant trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8.3 of this Ordinance.

## **SECTION 10.0 ADMINISTRATION**

**10.1 Zoning Administrator:** A Zoning Administrator designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 12.0 of the Ordinance.

**10.2 Permit Requirements:**

**10.21 Permit Required.** A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

**10.22 Application for Permit.** Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

**10.23 State and Federal Permits.** Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

**10.24 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use.** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

**10.25 Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance.** Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 12.0 of this Ordinance.

**10.26 Certification.** The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land

surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

**10.27 Record of First Floor Elevation.** The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or and alterations additions to structures are flood-proofed.

### **10.3 Board of Adjustment:**

**10.31 Rules.** The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State Law.

**10.32 Administrative Review.** The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

**10.33 Variances.** The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

**10.34 Hearings.** Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by application



for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

**10.35 Decisions.** The Board shall arrive at a decision on such appeal or Variance within 30 days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a safeguards such as those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

**10.36 Appeals.** Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.

**10.37 Flood Insurance Notice and Record Keeping.** The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

**10.4 Conditional Uses.** The Board of Adjustment (Governing Body/Planning Comm./Bd. of Adjust.) shall hear and decide applications for Conditional Uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to The Board of Adjustment for consideration.

**10.41 Hearings.** Upon filing with the Board of Adjustment an application for a Conditional Use Permit, the Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

**10.42 Decisions.** The Board of Adjustment shall arrive at a decision on a Conditional Use within 30 days. In granting a Conditional Use Permit the Board of Adjustment shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

**10.43 Procedures to be followed by the Board of Adjustment in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.**

(a) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Board of Adjustment for determining the suitability of the particular site for the proposed use:

(1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.

(2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(b) Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

(c) Based upon the technical evaluation of the designated engineer or expert, the Board of Adjustment shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

**10.44 Factors Upon Which the Decision of the Board of Adjustment Shall be Based.** In passing upon Conditional Use applications, the Board of Adjustment shall consider all relevant factors specified in other sections of this Ordinance, and:

(a) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(e) The importance of the services provided by the proposed facility to the community.

(f) The requirements of the facility for a waterfront location.

(g) The availability of alternative locations not subject to flooding for the proposed use.

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(l) Such other factors which are relevant to the purposes of this Ordinance.

**10.45** Time for Acting on Application. The Board of Adjustment shall act on an application in the manner described above within 30 days from receiving the application, except that where additional information is required pursuant to 10.44 of this Ordinance. The Board of Adjustment shall render a written decision within 30 days from the receipt of such additional information.

**10.46** Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the Board of Adjustment shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- (a) Modification of waste treatment and water supply facilities.
- (b) Limitations on period of use, occupancy, and operation.
- (c) Imposition of operational controls, sureties, and deed restrictions.
- (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (e) Flood-proofing measures, in accordance with the State Building code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

## **SECTION 11.0 NONCONFORMING USES**

**11.1** A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

**11.11** No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

**11.12** Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood-proofing techniques ( i.e. , FP-1 thru FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in 11.13 below.

**11.13** The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed so percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds so percent of the current market value of the structure, then the structure must meet the standards of Section 4.0 or 5.0 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

**11.14** If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

**11.15** If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more if its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 4.0, 5.0 or 6.0 will apply depending

upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

## **SECTION 12.0 PENALTIES FOR VIOLATION**

**12.1** Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of Conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

**12.2** Nothing herein contained shall prevent the County of Kanabec from taking such other lawful action as is necessary to prevent or remedy any Violation. Such actions may include but are not limited to:

**12.21** In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these Official controls and to correct ordinance Violations to the extent Possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

**12.22** When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the Violation of the official control. As soon as is reasonably Possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree Possible.

**12.23** The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected Violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already Completed, then the Zoning Administrator may

either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into Compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact Permit/development approval Within a specified period of time not to exceed 30-days.

**12.24** If the responsible party does not appropriately respond to the Zoning Administrator within the Specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

### **SECTION 13.0 AMENDMENTS**

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must be in accordance with the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

*Passed and approved this 22<sup>nd</sup> day of August, 1990, by the Kanabec County Board of Commissioners.*

## **ORDINANCE #11, Regulating Waste Tires and Used Tires**

**Subdivision 1. Purpose.** This ordinance regulates waste tires and used tires, the establishment, construction, modification, ownership, or operation of waste tire facilities, and the storage, use, processing and disposal of waste tires and waste tire products in Kanabec County; and further regulates used tires, and the establishment, construction, modification, ownership, or operation of sites in which used tires are stored, collected, kept, or deposited in Kanabec County.

### **Subdivision 2. Definitions.**

- 2.1 "County Board" means the Kanabec County Board of Commissioners.
- 2.2 "Zoning Administrator" means the Kanabec County Zoning Administrator.
- 2.3 Unless otherwise denoted, all other terms shall have the definitions given by Minnesota Agency Rules 9220.0210 and other sources incorporated therein by reference.
- 2.4 "Tire" means a pneumatic tire or solid tire.
- 2.5 "Waste Tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.
- 2.6 "Tire-derived products" means the usable materials produced from the chemical or physical processing of a waste tire, including tire shreds and tire crumbs. "Tire-derived products" does not include manufactured consumer products including but not limited to, cow mats, door mats and mulch rings.
- 2.7 "Used Tire" means any tire that is no longer mounted on a vehicle or airplane, is suitable for its original intended purpose, and is not a "waste tire," as defined in 2.5.
- 2.8 "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- 2.9 "Tire retailer" means any business registered with the Minnesota Secretary of State which is actively engaged in the retail sale of new or used tires for use on vehicles or airplanes, operating out of a permanent structure open for and catering to the general public.
- 2.10 "Agricultural Use" means the use of land for the growing and/or storage of field crops.



### **Subdivision 3. Waste Tire Facility Permit Required.**

- 3.1 Except as provided in 3.2, no person may do any of the following within Kanabec County without obtaining and possessing a valid Waste Tire Facility Permit from the Minnesota Pollution Control Agency and the Kanabec County Board of Commissioners:
  - 3.1.1 Store, process or dispose of waste tires or tire-derived products;  
or
  - 3.1.2 Establish, construct, modify, own or operate a waste tire facility.
- 3.2 Exclusions. The following persons are not required to obtain a Waste Tire Facility Permit:
  - 3.2.1 A registered and trademarked retail tire seller who is located in Kanabec County for the retail selling site if no more than 500 waste tires are kept on the business premises;
  - 3.2.2 A permitted landfill operator with less than 500 waste tires stored above ground at the permitted site for 90 days or less.
  - 3.2.3 A person using waste tires for agricultural purposes, in connection with property being put to an agricultural use, as that term is defined in this Ordinance, if the waste tires are kept on the site of use and are cut and split, or, if not split, no more than 100 tires on site and if said property changes to a non-agricultural use, then waste tires must be removed within 120 days; or
  - 3.2.4 A person conducting abatement activities under an abatement order or stipulation agreement entered into under part 7035.8020 of Minnesota Agency Rules. This exemption does not exempt the person from the duty to obtain a waste tire facility permit for activities other than the abatement action.
  - 3.2.5 A person storing 12 waste tires or less, on property owned or occupied by the person.

### **Subdivision 4. Issuance of Waste Tire Facility Permit.**

- 4.1 A Waste Tire Facility Permit may be issued to an applicant who does all of the following:
  - 4.1.1 Submits an application to the Zoning Administrator on an approved form accompanied by an application fee, which shall be established by the County Board by resolution.

- 4.1.2 Files with the Zoning Administrator a copy of the permit issued by the Minnesota Pollution Control Agency, or properly and adequately demonstrates that the applicant has Permit by Rule status with the Minnesota Pollution Control Agency.
- 4.1.3 Demonstrates compliance with all applicable zoning and use ordinance.
- 4.2 All facilities shall have an approved fire plan on record with the Kanabec County Environmental Services from the local fire official.

**Subdivision 5. Terms and Conditions of Waste Tire Facility Permit.** Permits shall be valid for one year from the date of issuance or until the license From Minnesota Pollution Control becomes invalid, whichever occurs first.

**Subdivision 6. Tire Shreds.**

- 6.1 The use of tire-derived products as lightweight fill or for other engineering benefits for Township and County projects and Township, County or State Roads/Highways is permitted only when used in compliance with MN DOT standards and Minn. Stat §115A.912, Subd. 4.
- 6.2 A tire shred permit may be issued to an applicant who files with the Zoning Administrator a copy of the permit issued by the Minnesota Pollution Control Agency, or properly and adequately demonstrates that the applicant has Standing Beneficial Use status with the Minnesota Pollution Control Agency.
- 6.3 A permit or inspection verification from the Minnesota Pollution Control Agency and a Kanabec County permit is required for all tire shred projects.
- 6.4 The use of tire-derived products for an aggregate substitute or as light weight fill on driveways and field roads will be allowed if it is an engineered design and the data shows a need for their use. The use of tire shreds for any other purposes, such as retaining wall backfill, soil stabilization, foundation insulation, and storm water storage is not allowed unless approved by the Kanabec County Board of Commissioners and a permit is issued.
- 6.5 Under no circumstances will shredded tires be permitted to be placed below the normal groundwater elevation.

- 6.6 All projects shall have an approved fire plan provided by the local fire official included with their permit application.

## **Subdivision 7. Tire Shreds Driveway/Field Road Specifications and Inspection.**

### 7.1 Specifications:

- Maximum finished top width: 20 feet
- Maximum bottom width of shredded tire fill: 26 feet
- Maximum thickness of shredded tires: 3 feet
- Minimum cover over tire shreds: 1.5 feet granular fill and 0.5 feet of Class 5 aggregate
- Finished side slopes: 3:1
- Tire fill side slopes: 1:1
- Shredded tires must be encapsulated in an approved geotextile fabric and placed above the normal ground water elevation

### 7.2 Shredded tires must:

- 80% by weight pass a 6" screen
- Be free of oil, grease, and other contaminants
- Have metal fragments firmly attached and 98% embedded to the tire material
- Have at least one (1) sidewall severed from the face of the tire

7.3 Project must be engineer designed and prepared by an engineer licensed by the State of Minnesota.

7.4 Project must show that there is an engineering need for the use of waste tire material.

### 7.5 Inspections:

7.5.1 Inspection will be conducted by the Kanabec County Engineer or representative. Inspections will require a 24 hour advance notice from the installer.

7.5.2 The following inspections are required:

7.5.2.1 Review and approval of plan.

7.5.2.2 Inspection of trench prior to placement of geotextile.

7.5.2.3 Inspection of geotextile and tire shreds prior to placement of cover material.

7.5.2.4 Inspection of finished project.

## **Subdivision 8. Used Tires.**

- 8.1 Except as provided in 8.4 and 8.5, no person may store, process, sell, or dispose of used tires, or establish, construct, modify, own, or operate a used tire business or facility, without obtaining a used tire permit from the County.
- 8.2 Used tires shall be collected, stored, kept, or deposited on a site only in accordance with this ordinance.
- 8.3 Used tires must be inventoried and marketed in substantially the same fashion as a new tire is inventoried and marketed. Any permitted used tire business, facility, or site must be able to provide satisfactory evidence that a used tire market exists, and that the used tires stored or maintained at the permitted premises are in fact being marketed.
- 8.4 A used tire permit is required for any business, facility, or site on which more than 500 used tires are collected, stored, kept, processed, or deposited, unless exempt from permitting under 8.5.
- 8.5 Notwithstanding 8.4 a used tire permit is not required for any tire retailer that collects, stores, keeps, processes, or deposits less than 5,000 used tires on site (see 2.9 for reference).
- 8.6 A used tire permit may be issued to an applicant who submits all of the following information to Kanabec County Environmental Services:
  - 8.6.1 An application to the Zoning Administrator on an approved form accompanied by an application fee, which shall be established by the County Board by resolution.
  - 8.6.2 A map depicting the site and location of the used tires to be collected, stored, or deposited.
  - 8.6.3 An approved fire plan from the local fire official.
  - 8.6.4 The name and contact information for the owner of the site.
  - 8.6.5 The applicant must demonstrate compliance with all applicable requirements in the zoning and use ordinance.
- 8.7 Used tire permits shall be valid for one year from the date of issuance by Kanabec County Environmental Services.

**Subdivision 9. Applicability to existing facilities.**

9.1 All waste and used tire businesses, facilities and sites in existence on the effective date of this ordinance are required to apply for and obtain County permits as required under the provisions of this ordinance within 6 months of the effective date of this ordinance.

**Subdivision 10. Penalties.**

10.1 In addition to any civil remedy available, the violation of any provision of this ordinance shall constitute a misdemeanor, punishable by a maximum penalty of a \$1,000.00 fine or 90 days imprisonment, or both.

10.2 After notification and failure to terminate and abate the operation, each day of operation subsequent to the initial charge shall constitute a separate offense.

**Subdivision 11. Effective Date.**

Adopted on July 13<sup>th</sup>, 1988 with an effective date of September 1<sup>st</sup>, 1988.

A one-year interim waste tire ordinance approved on December 8<sup>th</sup>, 2010.

Amended on September 28<sup>th</sup>, 2011 with an effective date of November 1<sup>st</sup>, 2011.

Amended on December 21<sup>st</sup>, 2021 with an effective date of January 1<sup>st</sup>, 2022.

Signed \_\_\_\_\_ Date: \_\_\_\_\_

Commissioner Dennis McNally  
Vice Chair of the Kanabec County Board of Commissioners  
Kanabec County, Minnesota

Attest: \_\_\_\_\_ Date: \_\_\_\_\_

Kris McNally  
Kanabec County Coordinator

## ORDINANCE #12

AN ORDINANCE DESIGNATING THE PUBLICLY OWNED ISLANDS IN KNIFE LAKE AND INDIAN MOUND PARK ON KNIFE LAKE AS ARCHEOLOGICAL SITES, AND REGULATING ACTIVITY THEREON.

The County Board of Kanabec County Ordains:

1. All publicly owned islands on Knife Lake, and Indian Mound Park located on the shore of Knife Lake, are hereby declared to be "archeological sites" (site) within the meaning of Section 138.31, Subd. 3, Minnesota Statutes, 1988.
2. No person, without being licensed therefore, pursuant to Section 138.36, Minnesota Statutes, 1988, shall disturb any site by means of surveying, digging, sampling, excavating or removing objects or evidence of archeological interest, or going on a site with that intent.
3. No person shall be present on any such site between the hours of 10:00 P.M. and 5:00 A.M. without authorization from the Kanabec County Board.
4. No person shall build or maintain any fire on any such site except in a permanent fireplace designated for that purpose on Indian Mound Park.
5. No person shall remove, destroy or damage any tree, shrub, vine, plant or other herbage on any site without authorization from the County Board.
6. No person shall leave, store, abandon or otherwise cause to remain on any site any object or material foreign to the site. This includes, but is not limited to, fish houses, dark houses, construction materials, picnic and camping supplies and equipment, other personal property, garbage, debris or refuse. The only exception to this is improvements authorized by the County Board for the preservation or beautification of a site.
7. The Indian Mound Burial Ground is subject to further restrictions pursuant to Section 307.08 Minnesota Statutes, 1988. This Ordinance is in no measure in derogation of the provisions of said statute and the restrictions, prohibitions and penalties of this Ordinance are in addition thereto and not in lieu thereof.
8. Any person violating this ordinance shall, upon conviction thereof, be fined not more than seven hundred dollars (\$700.00) and/or imprisoned for not more than ninety (90) days for each offense. The defendant may be assessed the costs of prosecution if convicted. Each day the violation exists constitutes a separate offense.

Adopted this 13<sup>th</sup> day of September, 1989.

**ORDINANCE NO. 14**

**SOLID WASTE MANAGEMENT ORDINANCE**

**FOR**

**KANABEC COUNTY, MINNESOTA**

**AUGUST, 1990**

## KANABEC COUNTY SOLID WASTE ORDINANCE

An ordinance authorizing and providing for County Solid Waste Management, establishing powers and duties in connection therewith, establishing standards and requirements for solid waste management operations within the County of Kanabec, requiring a license for establishment and use of a solid waste management operation; embodying minimum standards and requirements established by rules of the Minnesota Pollution Control Agency; providing for enforcement of said requirements; requiring a performance bond and insurance; and imposing penalties for failure to comply with these provisions; in purpose and object to promote health, welfare and safety of the public and protect resources of water, air and land pursuant to Minnesota Statutes, Chapters 115, 115A, 116 and 400.

The County Board of Commissioners of the County of Kanabec, hereinafter referred to as the County Board, does ordain:

**SECTION I. DEFINITIONS** Unless specifically altered, terms and abbreviations used in this ordinance shall be interpreted in a manner consistent with Minnesota Statutes, Chapters 115, 115A, 116 and 400 and rules of the Agency, which have been or hereafter may be adopted under those provisions. Terms and abbreviations used herein which are not specifically defined by law shall be construed in accordance with the context and professional usage.

Subd. 1. “Agency” means the Minnesota Pollution Control Agency.

Subd. 2. “Air Contaminant” means the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

Subd. 3. “Air Pollution” means the presence in the outdoor atmosphere of any air contaminant or combination thereof in such quantity, of such nature and duration, and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

Subd. 4. “Canister System” means one or more commercial solid waste storage containers (such as “green boxes” and “dumpsters”) located to function as intermediate disposal facilities, and which are serviced on a regular basis by a public or private solid waste hauler.

Subd. 5. “Commercial Hauler means any person, as defined in Section I, who owns, operates, or leases vehicles for hire for the purpose of collection and/or transportation of any type of solid waste.



Subd. 6. “County” means any department or representative of the County who is authorized by this ordinance or otherwise by the County Board to represent the County of Kanabec in the enforcement or administration of this ordinance.

Subd. 7. “Composting” means the controlled biological decomposition of selected solid waste in a manner resulting in an innocuous final product.

Subd. 8. “Cover Material” means material approved by the Agency that is used to cover compacted solid waste in a land disposal site. Important general characteristics of good cover material are low permeability, uniform texture, cohesiveness and compactibility.

Subd. 9. “Demolition Debris” means solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. Demolition debris does not include asbestos wastes.

Subd. 10. “Demolition Debris Land Disposal Facility” means a site used only to dispose of demolition debris.

Subd. 11. “Garbage” means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

Subd. 12. “Hazardous 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. Hazardous waste does not include sewage sludge and source material, special nuclear material or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Subd. 13. “Incineration” means the process by which solid wastes are burned for the purpose of volume or weight reduction or energy recovery in facilities designed for such use.

Subd. 14. “Industrial Waste” means solid waste resulting from an industrial, manufacturing, service, or commercial activity that is managed as a separate waste stream.

Subd. 15. “Intermediate Waste Disposal Facility” is a facility for the preliminary or incomplete disposal of solid waste including, but not limited to, transfer station, canister site or system, open burning site, incineration, composting, recovery of Recyclable materials, reduction, shredding and compression.

Subd. 16. “Land Pollution” means the presence in or on the land of any waste in such quantity, of such nature and duration, and under such condition as would affect injuriously any waters of the State, create air contaminants or cause air pollution.

Subd. 17. “Licensee” means a person who has been issued a license by the Board for solid waste management purposes pursuant to this ordinance.

Subd. 18. “Major Appliances” means clothes washers, dryers, dishwashers, garbage disposals, trash compactors, conventional ovens, ranges and stoves, air conditioners, refrigerators, and freezers.

Subd. 19. “Mixed Municipal Solid Waste” means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash construction debris, mining waste sludge, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

Subd. 20. “Operation” means any site, facility, or activity relating to solid waste management.

Subd. 21. “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.

Subd. 22. “Putrescible Material” means solid waste which is capable of being rotten, or which may reach a foul state of decay or decomposition.

Subd. 23. “Recyclable Materials” means materials that are separated from mixed municipal solid waste, by the generator for the purpose of recycling, including paper, plastic, glass, metals, automobile oil and batteries.

Subd. 24. “Recycling Facility” means a Facility where recyclable materials are purchased from generators or collectors, processed for marketing or loaded into vehicles for transport to market.

Subd. 25. “Refuse” means putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, market and industrial solid wastes and municipal treatment wastes which do not contain free moisture.

Subd. 26. “Rubbish” means nonputrescible solid wastes, including, but not limited to, ashes, consisting of both combustibles and noncombustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery or litter of any kind.

Subd. 27. “Sanitary Landfill” means a land disposal site, permitted by the Agency, employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume, and applying cover material at the end of each operating day, or at intervals as may be required by the Agency.

Subd. 28. “Shoreland” means land located within the following distances from public water: a) 1,000 feet from the ordinary high water mark of a lake, pond, or flowage; and b) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater.

Subd. 29. “Solid Waste” means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, or other discarded waste materials and sludge, in solid, semi-solid, liquid or contained gaseous form, resulting from industrial, commercial, mining, or agricultural operations, or 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 material, special nuclear material, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Subd. 30. “Solid Waste Management Facility” means a sanitary landfill, or an intermediate disposal facility.

Subd. 31. “Solid Waste Management” means the storage, collection, or removal of solid waste from or on public or private property, its transportation to intermediate or final disposal facilities or its final disposal by methods approved by the Agency.

Subd. 32. “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.

Subd. 33. "Water Pollution" means a) the discharge of any pollutant into any waters of the State or the contamination of any water of the State so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, agricultural, commercial, industrial, recreational or other legitimate uses, or to livestock, animals, birds, fish or other aquatic life; or b) the man-made or man-induced Alteration of the chemical, physical, biological, or radiological integrity of waters of the State.

Subd. 34. "Waters of the State" means waters, surface or underground, except those surface waters which are not confined but are spread and diffused over the land. "Waters of the State" includes all boundary and inland waters.

Subd. 35. "Yard Wastes" means the garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

## **SECTION II. GENERAL PROVISION.**

Subd. 1. No person shall cause, permit, or allow land or property under his control to be used for solid waste management purposes, except at an operation for which a license has been granted by the County Board, unless otherwise provided by this ordinance.

Subd. 2. Any operation to be used for any method of solid waste management not otherwise provided for in this ordinance must be licensed by the County Board before operation may commence. The license application shall include three sets of complete plans, specifications, design data and ultimate land use plans. Proposed operating procedures for a solid waste disposal facility must be prepared by a professional engineer registered in Minnesota. The applicant shall procure a proper zoning permit to accompany the application as required by the County Zoning Ordinance. No license shall be issued for a solid waste facility unless the applicant has demonstrated to the satisfaction of the County Board the availability of revenues necessary to operate the facility in accordance with applicable state and local laws, ordinances and rules.

Subd. 3. After receiving an application for an operation, the Solid Waste Officer shall evaluate the application and shall give his recommendations to the County Board concerning whether it should issue or deny the license. If an applicant is denied a license, such applicant shall be notified in writing of the reasons therefore by the County Board. A denial shall be without prejudice to the applicant's right to file a further application after revisions are made to satisfy objections specified as reasons for the denial.

Subd. 4. The County Board shall refuse to issue a license for any operation which does not comply with this ordinance, Agency rules and the County's solid waste management plan.

Subd. 5. Issuance of any license pursuant to the provisions of this ordinance shall be contingent upon the applicant furnishing to the County a bond in an amount to be set by resolution, by the County Board. This bond shall name the County as obligee with sufficient sureties duly licensed and authorized to transact business in the State of Minnesota as sureties. The condition of such bond shall be that if the licensee fails to comply with any of the requirements or fails to perform any of the acts required of an operation or ceases to operate or abandons the operation, the County is required to expend any monies or expend any labor or material to restore the operation to a condition in compliance with this ordinance, the bond holder and the sureties on its bond shall reimburse the County for any and all expenses incurred by the County to remedy failure of the licensee to comply with the terms of this ordinance, and the bond holder and its sureties shall indemnify and, save the County harmless from all losses, costs, and charges that may occur to the bond holder or its sureties because of any default of the licensee under the terms of his license to operate in compliance with the terms of the ordinances of the County.

Subd. 6. In addition to the bond referred to in subd. 5, issuance of any license pursuant to the provisions of this ordinance shall be contingent upon the applicant securing, and furnishing to the County a copy of a certificate therefore, the following types of insurance issued to the licensee by insurers duly licensed within the State of Minnesota and in amounts to be set by the County Board; general liability including, but not limited to, bodily injury, property damage, motor vehicle, loading and unloading and gradual pollution insurance.

Subd. 7. Any license granted by the County Board under the provisions of this ordinance may be suspended by the County Board at any time for noncompliance with the provisions of the license, this ordinance or applicable state laws or rules, or upon written notification to the licensee and the County Board by the Solid Waste Officer or by an authorized representative of the Agency that the continued use of the operation may endanger the health, welfare or safety of the public or that the continued use may cause pollution or impairment of the environment.

The notice of suspension shall be deemed adequately served whenever it is served upon the licensee personally or be leaving the same at the licensed premises with the person in charge thereof. A copy of the notice of suspension shall be provided to the County Board. The County Board shall remove the license suspension only upon presentation of evidence acceptable to the County Board that the conditions which were cited as cause for suspension have been fully corrected. A license may be revoked only after the County Board has held a public hearing at which the licensee and other persons wishing to be heard concerning the operation shall have the right to be heard. The date of the hearing for license revocation shall be set by the County Board and shall not be held earlier than ten calendar days after notice of said hearing was mailed to the licensee. Evidence may be adduced in a manner consistent with the rules of evidence applied in civil cases. A transcript thereof shall be made by tape recording or other suitable technique. If, pursuant to said hearing, the County Board shall determine that the operation has been conducted in violation of the

provisions of the license, this ordinance, State laws of States rules, the County Board may revoke the license or continue such suspension in effect until the operation has demonstrated that full compliance with the provisions of the license, this ordinance, State laws and State rules has been attained and that such compliance will be continued in the foreseeable future.

Subd. 8. Routine inspection and evaluation of an operation shall be made by the Solid Waste Officer at such frequency as to ensure consistent compliance, by the operation with the provisions of this ordinance. The licensee shall be provided with a written inspection report containing a precise description of any deficiencies, recommendations for the correction thereof and the date when the corrections shall be accomplished. Copies of said report(s) shall be furnished to the Agency. The licensee shall allow authorized representatives of the County or the Agency, access to the facility at any time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this ordinance, and any other applicable statute, ordinance, or rule.

Subd. 9. Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance, or any other applicable law, ordinance or rule the provision which establishes the higher standards for the promotion of public health, safety, and general welfare shall prevail.

Subd. 10. Every license issued for a solid waste operation shall be recorded in the office of the County Recorder.

Subd. 11. Nothing in this ordinance shall be construed to require a permit for the beneficial use of Lime By Products from a water supply Treatment Plant.

### **SECTION III. SOLID WASTE OFFICER**

Subd. 1. The Solid Waste Officer shall have all necessary authority to implement and carry out the provisions of this ordinance including, but not limited to, the following:

- (a) To review and consider all license applications and supporting materials which are referred to the Solid Waste Officer for operations within the County, and after such review and consideration, to recommend in writing with documentation to the County Board whether a license should be granted or denied.
- (b) To inspect operations to determine compliance and to investigate complaints about violations of this ordinance.
- (c) To recommend to the County Attorney that legal proceedings be initiated against a person or group of persons to compel compliance with the provisions of this ordinance or to terminate or control an operation not in compliance with this ordinance. The County Solid Waste Officer does have citation authority.

- (d) To encourage and conduct studies, investigations and research relating to aspects of solid waste management, including, but not limited to, methodology, chemical and physical considerations, and engineering.
- (e) To advise, consult, and cooperate with the public and other governmental agencies in furtherance of the purpose of this ordinance.

#### **SECTION IV. SOLID WASTE STORAGE**

Subd. 1. Solid wastes shall be stored in a manner which complies with State rules administered by the Agency.

Subd. 2. Toxic or hazardous wastes shall be stored in accordance with State rules administered by the Agency.

Subd. 3. Transfer stations and canister sites may be established and shall be licensed annually according to Section VIII and shall meet all requirements listed in Section IV as well as any additional requirements imposed by the County Board.

Subd. 4. Solid waste shall not be stored on public or private property for more than two (2) weeks without the written approval of the Solid Waste Officer. Nonputrescible wastes suitable for recycling shall not be stored on public or private property in a manner which creates a nuisance, blight, or health hazard.

#### **SECTION V. COLLECTION AND TRANSPORTATION OF SOLID WASTE**

Subd. 1. The collection and transportation of solid waste shall be performed in accordance with State rules administered by the Agency.

Subd. 2. Toxic or hazardous wastes shall be transported in a manner consistent with State rules administered by the Agency.

Subd. 3. No person may collect or transport solid waste for hire without first obtaining a license from the County Board. The County Board shall not issue a license until the applicant complies with all of the following requirements:

(a) The applicant shall submit a completed application form provided by the County for a solid waste collection and transportation license.

(b) The applicant shall submit to the County specifications of all vehicles to be used for solid waste collection and transportation. Such vehicles shall have leak-proof bodies of easily cleanable construction, completely covered with metal, heavy canvas or other suitable covering and shall be subject to approval and periodic inspection by the Solid Waste Officer.

(c) The applicant shall submit a description of the route(s) to be followed by all solid waste collection and transportation vehicles between the area of collection and the solid waste disposal operation.

(d) The applicant shall meet all of the applicable requirements for obtaining a license which are specified in Section II of this ordinance.

(e) The applicant shall be financially and operationally capable, as determined by the County Board, to properly collect, transport and dispose of all solid waste.

## **SECTION VI. SOLID WASTE LAND DISPOSAL FACILITIES**

Subd. 1. Land disposal facilities, including, but not limited to, sanitary landfills, modified landfills and demolition landfills, shall meet all the requirements of State rules administered by the Agency which govern these facilities.

Additionally, no person shall establish, operate or maintain a land disposal facility without first obtaining a license from the County Board in accordance with Section II.

Subd. 2. An application for a County license shall include, but not be limited to the following:

(a) An operating schedule and a schedule of fees to be levied at the land disposal facility.

(b) A notarized affidavit stating that the applicable local governments have been given at least thirty (30) days notification of the pending application for a license.

(c) A certificate from the County Zoning Administrator that the use proposed is in accordance with the established County Zoning Ordinance.

(d) Sufficient documentation to enable the County Board to determine whether the applicant is financially and operationally capable to properly dispose of all solid waste.

## **SECTION VII. INCINERATION AND ENERGY RECOVERY**

All incinerators having a capacity greater than 500 pounds per hour shall meet the requirements of State rules administered by the Agency. Additionally, the following requirements shall apply to all incinerators of any size which process solid waste.

Subd. 1. No person shall install or operate an incinerator without first obtaining a license from the County Board.

Subd. 2. The applicant shall meet all requirements for obtaining a license as specified in Section II of this ordinance. Furthermore, the County Board shall not issue a license until the applicant and facility comply with the following requirements:



(a) All of the same criteria for incinerator construction, operation and maintenance contained in State rules administered by the Agency which presently apply only to incinerators with capacities greater than 6,000 pounds per hour.

(b) Upon completion of the facility and prior to initial operation, the County Solid Waste Officer shall be notified to allow personnel of the County to inspect the facility both prior to and during the performance tests.

Subd. 3. The application for a county license shall include, but not be limited to, the following:

(a) An operating schedule and a schedule of fees to be levied at the incinerator.

(b) A notarized affidavit stating that the applicable local governments have been given at least thirty (30) days written notification of the pending application for a license.

(c) A certificate from the County Zoning Administrator that the use proposed is in accordance with the established County Zoning Ordinance.

(d) Sufficient documentation to enable the County Board to determine whether the applicant is financially and operationally capable to properly process and dispose of all solid waste.

(e) All, of the same information required for review by the State rules administered by the Agency which presently apply only to incinerators with capacities greater than 6,000 pounds per hour.

(f) Such additional data and information as may be required by the Solid Waste Officer.

Subd. 4. During normal operation, the facility shall comply with the following requirements:

(a) Permanent records shall be maintained for County inspection as to the quantity of material incinerated, the total quantity of resulting residue and total hours of plant operation.

(b) Any discharges to the air, or to surface or ground waters of the State shall meet all applicable State rules for air and water quality of effluent standards now or hereafter adopted.

(c) All unloading and processing of solid wastes at the facility shall be conducted in such a manner as to prevent or eliminate odors and litter outside the facility.

## **SECTION VIII. INTERMEDIATE SOLID WASTE DISPOSAL FACILITIES**

Subd. 1. No Intermediate Solid Waste Disposal Facility shall be constructed, established, maintained or operated unless the operator or owner thereof has first been issued therefore a license from the County Board and a permit from the Agency. The applicant shall meet all requirements for obtaining a license as specified in Section II of this ordinance. The application for a license shall contain the following information:

- (a) Location, size, and ownership of land upon which the operation will be situated.
- (b) General description of property used in the immediate vicinity of the operation.
- (c) Complete construction plans and specifications and proposed operating procedures for the operation.
- (d) Rates and charges to be imposed at the operation.
- (e) A notarized affidavit stating that the applicable local governments have been given thirty (30) days written notification of the pending application for a license.
- (f) Such additional data and information as may be required by the Solid Waste Officer.

Subd. 2. An intermediate solid waste disposal facility shall be constructed, operated, and maintained in compliance with the following requirements and State rules administered by the Agency.

- (a) A sign shall be posted on the premises indicating the name of the operation, the days and hours during which it is open to the public, and user charges, if any. The sign shall be approved by the Solid Waste Officer.
- (b) The premises shall be constructed and landscaped in such a manner as to be aesthetically pleasing in appearance.
- (c) Sanitary facilities and shelter adequate for employees shall be provided on the premises.
- (d) Records in a form acceptable to the Solid Waste Officer shall be maintained indicating the type and quantity of solid waste processed by the operation.
- (e) The operation shall be located, equipped, operated and maintained in a manner which prevents the creation of a nuisance, or unsanitary condition.
- (f) The premises' entrances and exits shall be maintained in a clean, neat and orderly manner at all times.

(g) All unloading of solid waste from contributing vehicles shall be conducted in such a manner as to prevent or eliminate odor and litter outside the facility.

## **SECTION IX. RECYCLING FACILITIES**

Subd. 1. No Recycling Facility shall be constructed, established, maintained or operated unless the operator or owner thereof has first been issued therefore a license from the County Board. The applicant shall meet all requirements for obtaining a license as specified in Section II at this ordinance. The application for a license shall contain the following information:

(a) Location, size, and ownership of land upon which the operation will be situated.

(b) General description of property used in the immediate vicinity of the operation.

(c) Complete construction plans and specification and proposed operating procedures for the operation.

(d) Recyclable Materials to be accepted at the Facility.

(e) A notarized affidavit stating that the applicable local governments have been given thirty (30) days written notification of the pending application for a license.

(f) Such additional data and information may be required by the Solid Waste Officer.

Subd. 2. A Recycling Facility shall be constructed, operated and maintained in compliance with the following requirements.

(a) A sign shall be posted on the premises indicating the name of the operation and the days and hours during which it is open to the public.

(b) Sanitary facilities and shelter adequate for employees shall be provided on the premises.

(c) Records in a form acceptable to the Solid Waste Officer shall be maintained indicating the type and quantity of Recyclable Materials processed by the operation.

(d) The operation shall be located, equipped, operated and maintained in a manner which prevents the creation of a nuisance or unsanitary condition.

(e) The premise entrances and exits shall be maintained in a clean, neat and orderly manner at all times.

## **SECTION X. LICENSE FEES**

Approval by the County Board of an application for license for a solid waste management facility shall be contingent upon the payment to the County of a license fee in the amount established by the County Board. The amount of the license fees shall be based upon the cost to the County of processing the license applications and administering, and enforcing this ordinance with respect to said licenses. The fees prescribed shall be paid by a license applicant for each facility maintained. Solid waste collector's and transporter's fees shall be paid annually as a condition for license renewal. Non-payment of the annual solid waste collector's or transporter's fee shall be ground for denial of license renewal. Fees shall be paid to the County Treasurer prior to issuance of licenses.

## **SECTION XI. TERMINATION OF SOLID WASTE OPERATIONS**

Subd. 1. All land disposal operations licensed by the County shall be terminated in accordance with State rules administered by the Agency.

Subd. 2. The license of any operation in Subd. 1 which has water monitoring wells or lysimeters which are reviewed by the County or the Agency to be sampled shall establish with the County an escrow account no later than one year from the effective date of this ordinance or five years prior to termination of the operation, whichever occurs sooner.

The purpose of the escrow account is to set aside adequate funds to continue the sampling required by the County or the Agency for a period required by the Agency. The County Board shall specify by resolution the amount of money to be deposited in the account and the terms for payments which shall be made by the licensee to that account. Failure by the licensee to meet the escrow account conditions established by the County Board shall constitute a failure of the licensee to comply with the terms of this ordinance, thereby enabling the County to use the provisions of Section II. Subd. 5 to make the necessary deposits to the escrow account.

Subd. 3. The licensee shall perform all long term monitoring required by the County or the Agency following termination or abandonment of all solid waste operations.

Subd. 4. The licensee of each solid waste operation shall inform the County Board in writing of a licensee's intent to abandon or terminate the operation. Such notice shall be provided in advance of the abandonment or termination date by the following amounts of time:

Land Disposal Facility	One year
Transfer Station	One year
Incineration Facility	One year
Collection/Transportation Service	90 Days
Recycling Facility	90 Days

Failure of a licensee to comply, for any reason, with the above advance notice requirements shall constitute a failure of the licensee to comply with the terms of this ordinance. The County Board may elect to pay all public and private higher than normal solid waste management costs which result from the premature cessation of a solid waste operation. The County may recover these costs through the provisions of Section II, Subd. 5.

## **SECTION XII. VARIANCES**

Upon written application by the applicant or operator, the County Board may grant variances from the provisions of this ordinance in order to promote the effective and reasonable application and enforcement of the provisions of this ordinance. If such variance would result in noncompliance with Agency rules, a variance application must be filed with the Agency.

A variance may be granted by the County Board after a public hearing where the County Board determines that enforcement of this ordinance would cause the applicant undue hardship, or that the ordinance cannot be complied with due to technological impossibility or economic unreasonableness. Such a variance shall not be granted for a period in excess of two years, but may be renewed upon application by the applicant and after a public hearing is held. A variance may be revoked prior to expiration of the variance by the County Board at a public hearing. An application for a variance shall be accompanied by a plan and schedule for achieving compliance with the ordinance. Prior to any public hearing held by the County Board under this provision, persons who may be adversely affected by the granting of the proposed variance shall be given at least thirty (30) days notice to said public hearing. Publication of a notice of hearing in appropriate newspapers shall be considered adequate notice.

## **SECTION XIII. NONCONFORMING SITES AND FACILITIES**

Solid waste management facilities in existence on the effective date of this ordinance shall conform to the provisions of this ordinance or terminate operations no later than 60 days from that date unless a variance application is submitted to the County Board within a sixty (60) day period following the effective date of this ordinance.

## **SECTION XIV. ADDITIONAL REQUIREMENTS**

For the purpose of protecting the public health, safety and welfare, the County Board may impose additional requirements consistent with the intent of this ordinance for the operation of solid waste management sites or facilities.

## **SECTION XV. SEVERABILITY**

It is hereby declared to be the intention of the County Board that the several provisions of this ordinance be severable in accordance with the following.

Subd. 1. If any Court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance not specifically included in said judgment.

Subd. 2. If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular structure, site, facility or operation, such judgment shall not affect the application of said provision to any other structure, site, facility, or operation not specifically included said judgment.

#### **SECTION XVI. PROVISIONS ARE CUMULATIVE**

The provisions of this ordinance are cumulative limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter, covering any subject matter of this ordinance.

#### **SECTION XVII. NOCONSENT**

Nothing contained in this ordinance shall be deemed to be a consent, license or permit to locate, construct, operate or maintain any site, facility or operation, or to carry on any activity.

#### **SECTION XVIII. VIOLATIONS**

Subd. 1. Any person who violates or fails, neglects or refuses to comply with the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished therefore as provided by Minnesota Statutes. A separate offense shall be deemed committed upon each separate day during or on which a violation occurs or continues.

Subd. 2. In addition both remedies this ordinance may be enforced by any civil action in District Court to prevent, restrain, correct or abate violations or otherwise compel compliance.

#### **SECTION XIX. - OTHER ORDINANCES AND REGULATIONS**

Nothing in this ordinance shall preclude any local unit of government from adopting stricter regulations than this ordinance.

#### **SECTION XX. EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication according to law. All requirements shall take effect immediately, except for licensing solid waste collection. Solid Waste Collection Licenses will be required 90 day after the effective date of this ordinance.

***Passed and approved this 22nd day of August, 1990, by the Kanabec County Board of Commissioners.***

# RESOLUTION

BE IT HEREBY RESOLVED that the Solid Waste Collection and Transportation License Fee be set at \$50.00, renewable annually, with an effective starting date of January 1, 1997, and

BE IT FURTHER RESOLVED that the applicant shall furnish to the county certificates of insurance issued by insurers duly licensed within the State of Minnesota for the following types of insurance:

1. Comprehensive general liability insurance covering bodily injury and property damage (combined limit) in the amount of \$200,000.00 per person and \$600,000.00 per occurrence, and personal injury in the amount of \$200,000.00 per person and \$600,000.00 aggregate.
2. Comprehensive automobile liability insurance including owned, non-owned and hired automobiles, in the amount of \$200,000.00 per person and \$600,000.00 per occurrence.
3. Worker's compensation and employer's liability insurance as required by law.

## **KANABEC COUNTY ORDINANCE #15**

### **AN ORDINANCE TO FACILITATE MAINTENANCE AND SNOW REMOVAL FROM THE COUNTY HIGHWAYS OF KANABEC COUNTY**

The Kanabec County Board of Commissioners ordains:

1. No person shall leave a vehicle parked, standing or abandoned within the right-of-way on any County or County State Aid Highway within Kanabec County from the start of any snowfall and for a period 72 hours or until the road has been plowed full width.
2. Violation of this Ordinance shall be a petty misdemeanor punishable by a fine of \$15.00.
3. The presence of a vehicle in or upon a County maintained road of the County parked, standing or abandoned in violation of this section shall be prima facia evidence that the person in whose name such vehicle is registered as owner committed or authorized the commission of such violation.
4. Any vehicle left parked, standing or abandoned in violation of this Ordinance may be removed to a place for storage, without notice, by the County through its officers, agents and employees.
5. The vehicle may be released to the owner or its agent upon the following conditions:
  - a. The demonstration of ownership or right to possession.
  - b. Payment of all costs and expenses incident to the removal, towing and storage of the vehicle.

Costs and expenses include, but are not limited to, costs for the removal, towing and storage performed by someone for hire. Payment of this shall not be deemed a penalty or a fine.

6. The effective date of this Ordinance shall be February 1, 1992.

Adopted this 22<sup>nd</sup> day of January, 1992.



## ORDINANCE #16

Kanabec County Ordinance No. 16 is an Ordinance regulating itinerant shows, carnivals, circuses, endurance contests and exhibitions of any nature whatsoever, prohibiting their occurrence without a license therefore, and providing penalties for the violation thereof.

**WHEREAS**, it is the judgment of the Kanabec County Board of Commissioners that it is desirable to license and regulate exhibitions to be held in this County that can reasonably be expected to attract more than one thousand (1000) observers and/or participants,

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of County Commissioners of Kanabec County, Minnesota, that in order to protect the health, safety and welfare of all persons in Kanabec County, residents and visitors alike, that no persons shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give tickets or admissions to an exhibition, show or assemblage with an expected duration of four (4) hours or more which has an admission charge, which exhibition, show or assemblage can reasonably be expected to cause an assembly of one thousand (1000) or more people, without first obtaining from the County of Kanabec a license to conduct or continue such exhibition, show or assemblage, said license to be subject to the following terms and conditions, to-wit:

1. Application for the license must be made at least sixty (60) days in advance of the commencement of the show or exhibition. The application must be accompanied by certified copies of all other necessary Minnesota state licenses or permits to support the application. When a license is granted to one person, any other person is entitled to engage in any lawful activity in connection with the holding of the licenses show or exhibition.
2. The applicant must determine the maximum number of people which will be assembled or admitted to the location of the show or exhibition, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the show or exhibition in consideration of the nature of the show or exhibition and provided that, where the assembly is to continue overnight together with the show or exhibition, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the show or exhibition by the zoning, if any relating thereto now or hereafter exist, or health ordinances of the County of Kanabec and the regulations of the Minnesota state Board of Health.
3. At the time the application for the license is submitted, the sponsor will provide a plan, including the provisions herein, for the operation of the show or exhibition. Local authorities will inspect to determine whether the requirements of these provisions have been substantially met. As a minimum the plan must include the following:
  - a. A fence completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the show grounds which fence shall have at least four (4) gates, at least one at or near four opposite points of the compass.
  - b. Portable water, meeting all federal and state requirements for sanitary quality, sufficient to provide drinking water for the maximum number of people to be assembled to observe the show, at the rate of at least one (1) gallon per person per day.
  - c. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide

facilities for the maximum number of people to be assembled in accordance with the Minnesota State Board of Health Regulations and Standards.

- d. A sanitary method of disposing of solid waste in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and a plan for collecting all such waste at least once each day of the show or exhibition's continuance and sufficient trash containers and personnel to perform tasks.
- e. If the show or exhibition is to continue during hours of darkness, or the people in attendance to observe shall continue to be assembled during hours of darkness upon the grounds where the show or exhibition is being held, illumination sufficient to light the entire area of the assembly shall be provided.
- f. If the show or exhibition is to continue during hours of darkness, or the people in attendance to observe shall continue to be assembled during hours of darkness, camping facilities in compliance with all state and local requirements as set forth in Minnesota Statutes and Regulations and ordinances of this County, sufficient to provide camping accommodations for the maximum number of people to be assembled to observe the show or exhibition.
- g. Security and traffic control plan which will meet the requirements of local authorities and the Minnesota Department of Public Safety. Regularly employed off duty Minnesota law enforcement officers, or other approved security officers, sufficient to provide adequate security for the maximum number of people to be assembled for the purpose of viewing the show or exhibition.
- h. Administrative control center with telephones where local authorities can contact the sponsors and law enforcement personnel inside the area where the show or exhibition is being conducted.
- i. Sufficient surety to indemnify and hold harmless the County of Kanabec, or any of its agents, officers, servants and employees from any liability or causes of action which might arise by reason of granting this license, payment of employees, or services rendered by the granting authority and from any cost incurred in cleaning up any waste material produced or left by the people in attendance at said show or exhibition.
- j. The County Board shall act on the application no later than thirty (30) days prior to the scheduled event.
- k. In the event that the license is denied or revoked, the County shall institute within fifteen (15) days therefrom, proceedings for a temporary or permanent injunction to restrain the proposed event.
- l. In addition to the injunctive remedies, violation of this Ordinance shall be punishable by 90 days incarceration in the Kanabec County Jail or a \$700.00 fine for each day of the violation.

**RESOLVED FURTHER,** That application for the license to conduct a show or exhibition regulated hereunder, shall be on a form furnished by the County Auditor of the County of Kanabec, said form to be completed by the sponsor of the show or exhibition, under oath, and signed by said applicant. The application form shall contain and require to be disclosed the following matters, to-wit:

- a. The name, age, residence and mailing address applicant if an individual, and the officers corporation, if applicant is a corporation.
- b. The address and legal description of all property upon which the show or exhibition is going to be held.
- c. The names and addresses of all persons owning the land where said show or exhibition is going to be held.
- d. The nature and purpose of the show or exhibition
- e. The maximum number of persons which the applicant shall permit to assemble at any time, for purposes of observing the show or exhibition.
- f. The maximum number of tickets, if any, which will be sold.
- g. Plans of the applicant to limit the maximum number of people permitted to assemble for purposes of observing the show or exhibition.
- h. The plans for controlling and parking vehicles of the persons assembling to observe the show or exhibition.
- i. The plans for security including the number of guards, their deployment, their names, addresses, credentials and hours of availability.
- j. The plans for sound control, if applicable, and sound amplification, if any, including number, location and power of amplifies and speakers.
- k. The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.

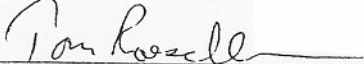
**RESOLVED FURTHER**, that there shall be a \$50.00 application fee which shall be submitted by the applicant with the application.

**RESOLVED FURTHER**, This resolution shall not apply to any stadium, auditorium, or permanent building of worship which has the capacity to hold within its confines, the maximum assemblage which can reasonably be expected to attend anyone event or service. This resolution shall not apply to government sponsored fairs held on regularly established fair grounds.

**RESOLVED FURTHER**, That all ordinances/resolutions heretofore adopted in conflict with the terms of this Ordinance are, to the extent of such conflict, deemed repealed hereby and superseded by this Ordinance.

**RESOLVED FURTHER**, that this Ordinance shall take effect and be in force from and after July 2, 1992.

Adopted this 24th day of June, 1992.

  
\_\_\_\_\_  
Chairman of County Board  
Kanabec County, Minnesota

## KANABEC COUNTY ORDINANCE NO. 17

### AN ORDINANCE ESTABLISHING SOLID WASTE MANAGEMENT FEES CHARGED UPON REAL PROPERTY PARCELS AND MOBILE HOMES NOT TAXED AS REAL ESTATE IN KANABEC COUNTY AND PROVIDING FOR THE COLLECTION THEREOF IN THE MANNER PROVIDED FOR THE ENFORCEMENT AND COLLECTION OF REAL PROPERTY TAXES

The County Board of Kanabec County does Ordain:

#### SECTION I - SERVICE CHARGE

##### **Subsection 1.** Purpose and Authority

This ordinance is enacted pursuant to Minnesota Statute §400.08 which grants Kanabec County the authority to impose reasonable charges for solid waste management and disposal.

The purpose of this section is to establish a method of collection for such charges.

##### **Subsection 2.** Establishment of Solid Waste Management Fee

An annual waste management service fee is hereby imposed by parcel upon the real property and each mobile home not taxed as real estate within the Solid Waste Management Service Area, the same being the entirety of Kanabec County. Each fee shall be in accordance with the schedule set forth in Subsection 5.

##### **Subsection 3.** Method of Billing and Collecting Services Charge

The annual fee on each parcel generating the fee, shall be due as an assessment extended upon the tax rolls of the county for each year beginning with the taxes due and payable in 1993, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the state. Charges not paid shall become delinquent and be subject to the same penalties and same rate of interest as the taxes under the general laws of the state.

##### **Subsection 4.** Rates and Charges

The initial rate for the annual fees imposed by this ordinance, for the calendar year 1993, shall be \$38.00 times the number of units attributed to the parcel in accordance with the following schedule:

Single family-residential	1 Unit
Multi-unit commercial: (Including hotels, motels, resorts, hospitals, nursing homes, etc.)	
Commercial up to \$100,000 market value	1 Unit

Commercial \$100,000 to \$150,000	2 Units
Commercial \$150,000 to \$200,000	3 Units
Commercial over \$200,000	4 Units (maximum)
Residential:	
Per rental unit	1 Unit
Seasonal recreational residential	1 Unit
Mobile homes	1 Unit
Churches	1 Unit
School s & Government buildings	1 Unit per building
Rectories/Parsonages	1 Unit
Nursing Homes (Apply commercial rates)	

The County Board, by resolution, may revise the rate schedule for solid waste management services. All rates and charges shall be uniform in their application to use and service of the same character and quantity. A copy of the current rate schedule shall be kept on file in the Office of the County Auditor. If no new rate schedule for solid waste management services is adopted in any year, the rate schedule for the previous year shall remain in effect.

In establishing or revising the rate schedule, the Board may take into account all factors relevant to solid waste management and disposal. Such factors include, but are not limited to the character, kind .of quality of service and of solid waste, the method of disposition, the number of people served at each place of collection, and all other factors that enter into the cost of providing service, including but not limited to public education, recycling programs, solid waste management facilities operating and debt service cost.

**Subdivision 5. Appeals**

Any property owner who believes that the service charge imposed upon his property is incorrect, may appeal the charge. An appeal form may be obtained at the Office of the County Auditor, and shall be filed within 30 days of mailing the service charge statement by the County. The County Solid Waste Officer shall, within 30 days of receipt of the appeal, review the appeal and notify the appellant by U.S. mail whether an adjustment is due and how much or whether the appeal is denied.

**SECTION II - SERVICE AREA**

This section is enacted pursuant to Minnesota Statutes section 400.08 which grants Kanabec County the authority to establish and determine the boundaries of solid waste management services in the County. The boundaries of Kanabec County shall constitute the boundaries of the solid waste management service area.

**SECTION III - EFFECTIVE DATE**

This ordinance shall be in full force and effect January 1, 1993.

*Adopted December 23, 1992*

**The County Board of Kanabec ordains:**

## **ORDINANCE 18**

### **SOLID WASTE DISPOSAL WITHIN MINNESOTA**

#### **PURPOSE AND FINDINGS**

The purpose of this ordinance is to provide for specified locations for Mixed Municipal Solid Waste disposal within the State of Minnesota for waste collected within Kanabec County in order to protect the health, safety and welfare of residents, and to reduce the potential liability of County residents for future cleanup and remediation of solid waste disposal sites. The County is a member of the East Central Solid Waste Commission (ECSWC), a five-county joint power commission established in 1982 to provide the greatest public service benefit possible in solid waste planning, management and implementation for the entire contiguous Five-County area of Chisago, Isanti, Kanabec, Mille Lacs and Pine Counties. The Commission has acquired, maintained and improved a Solid Waste Management Facility located near Mora, Minnesota. The Board finds that it is in the best interest of the residents to collect Mixed Municipal Solid Waste and manage it in ECSWC Solid Waste Management Facilities.

#### **SECTION 1 DEFINITIONS**

For the purpose of this Ordinance, the terms defined in this section shall have the meanings given them, unless the context clearly indicates otherwise.

“Board” is the Board of County Commissioners for the County of Kanabec, or its designee.

“County” is the County of Kanabec, or its designee.

“Collector” is a person engaged in the business of collecting, transporting or disposing of Mixed Municipal Solid Waste generated in the County.

“Mixed Municipal Solid Waste” is garbage, refuse, and other solid waste from residential, farm, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, hazardous waste, construction & demolition debris, mining waste, sludges, tree waste, tires, lead acid batteries, used oil, and other materials collected, processed and disposed of as separate waste streams.

“Solid Waste Management Facility” is a facility for the processing or reuse, conversion, or Disposal of Mixed Municipal Solid Waste.

“Transfer Station” is an intermediate waste facility in which waste collected from any source is temporarily deposited to await transportation to another waste facility.

## **SECTION 2 PROHIBITION**

No person shall collect, transport, or dispose and/or make final disposition of Mixed Municipal Solid Waste generated or accumulated in the County at any location other than:

- A. The ECSWC Solid Waste Management Facility located near Mora, Minnesota, MPCA Permit Number SW-17;
- B. A Transfer Station operated under the direction of the ECSWC; or
- C. A Solid Waste Management Facility outside the State of Minnesota.

## **SECTION 3 PENALTY**

- A. The Collector license granted by the County may be revoked by the County Board of Commissioners following a Public Hearing for violation of this Ordinance.
- B. Revocation shall not occur earlier than five (5) working days from the time that written notice of revocation from the County is served on the Collector. Notice of revocation to the Collector shall be served personally or by US mail at the address designated in the license application. Such written notice of revocation shall contain the effective date of the revocation, the facts which support the conclusion that a violation has occurred.
- C. Right of Appeal: Any Collector whose license is revoked by the County in accordance with the provisions of this Ordinance shall have the right to appeal the decision to the Minnesota Court of Appeals by Writ of Certorari.

## **SECTION 4 EFFECTIVE DATE**

**This Ordinance shall be effective January 1, 2007.**

**COUNTY OF KANABEC**

By: \_\_\_\_\_  
**County Board Chairperson Les Nielsen**

By: \_\_\_\_\_  
**County Coordinator Alan B. Peterson,  
Clerk to the County Board**

## Kanabec County Ordinance No. 19

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 County Board of Kanabec Ordains:**

**Section 100. Purpose.** Because the county recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco related devices and such sales, possession and use are violations of both State and Federal laws; 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 Minn. Statute §144.391.

**Section 200. Definitions and Interpretations.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and their term “may” means permissive. The following terms shall have the definitions given to them:

**Subd. 1. Tobacco or Tobacco Products.** “Tobacco” or “Tobacco products” means any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings and 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” means any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

**Subd. 3. Self-Service Merchandising.** “Self-Service Merchandising” means open displays of tobacco, tobacco products or tobacco related devices in any manner where any person has 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” means any mechanical, electric or electronic or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

**Subd. 5. Individually Packaged.** “Individually packaged” means the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single .pack or other container as described in this subdivision shall not be considered individually packaged.

**Subd. 6. Loosies.** “Loosies” means the common term used to refer to a single or individually packaged cigarette.

**Subd. 7. Minor.** “Minor” means any natural person who has not yet reached the age of eighteen (18) years.

**Subd. 8. Retail Establishment.** “Retail Establishment” means any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores and restaurants.

**Subd. 9. Movable Place of Business.** “Movable Place of Business” refers to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

**Subd. 10. Sale.** A “sale” means any transfer of goods for money, trade, barter or other consideration.

**Subd. 11. Compliance Checks.** “Compliance Checks” means the system the county uses to investigate and ensure that those authorized to sell tobacco, tobacco products and tobacco related devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance Checks shall include the use of minors who attempt to purchase tobacco, tobacco products or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State or local laws and regulations relating to tobacco, tobacco products and tobacco related devices.

**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.

**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 completed application, the auditor shall forward the application to the County Board for action at its next regularly scheduled board meeting. If the auditor shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

**Subd. 2. Action.** The county board may either approve or deny the license or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the County Board shall approve the license, the auditor shall issue the license to the applicant. If the County Board denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision.

**Subd. 3. Term.** All licenses issued under this ordinance shall be valid from July 1 of the year the license is issued through June 30th of the following year. Licenses issued after July 1 may be accepted for new retailers and the license fee may 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 valid.

**Subd. 6. Movable Place of Business.** No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.

**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. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license.

**Subd. 9. Exceptions.** If a retailer is located within city limits of a municipality or the geographic limits of a township that has an ordinance or other regulation similar to this ordinance by its intent and purpose, then the retailer need only be licensed through the city or township and need not obtain a license through the county.

**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 \$50.00 or as modified from year to year by resolution of the County Board.

**Section 500. Basis for Denial of License.** If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section. The following is not an exclusive list which shall be grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the county must deny the license.

- A. The applicant is under the age of 18 years.
- B. The applicant has been convicted within the past five years of any violation of a Federal, State, local law, ordinance provision or other regulation relating to tobacco or tobacco products or tobacco related devices.
- C. The applicant has 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 fails to provide any information required on the application or provides false or misleading information.
- E. The applicant is prohibited by Federal, State or other local law, ordinance or other regulation from holding such a license.

**Section 600. 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.
- C. By means of self-service methods whereby the customer does not need to make a verbal or written request to any employee of the licensed premise in order to receive the tobacco, tobacco product or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco related device between the licensee or the licensee's employee and the customer.
- D. By means of loosies as defined in Section 200 of this ordinance.
- E. 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 any otherwise lawful manufacturing process.

F. 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 700. 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 means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

**Section 800. Self-Service Sales.** It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products or tobacco related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers or in a case or other storage 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 by July 1, 1998.

**Section 900. Responsibility.** All licensees 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 1000. 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. From time to time, but at least once per year, the county shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 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 guilty of the unlawful purchase or attempted purchase nor the unlawful possession of tobacco, tobacco products or tobacco related devices when such items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research or training purposes or required for the enforcement of a particular State or Federal law.

**Section 1100. 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 1200. 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.** Chairman of the County Board 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 1300 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 file 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 Violation.** Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

### **Section 1300. 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 purchase or attempt to purchase, tobacco, tobacco products or tobacco related devices shall be charged an administrative fine of \$50.00 and/or required to attend an educational course on tobacco.

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

**Section 1400. 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 State law.

**Section 1500. 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 1600. Effective Date.** This ordinance shall take effect July 1,1998.

## Kanabec County Ordinance Number 20

The Kanabec County Board of Commissioners does ordain:

The ordinance entitled Kanabec County Board of Adjustment Ordinance is hereby reiterated, amended, and/or adopted as follows:

Sec.1: The Board of Adjustment shall have the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with enforcing any ordinance adopted pursuant to the provision of sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

Sec.2: A reviewal of a decision of the administrative official may be brought by the filing of a petition therefore by an aggrieved party with the Board of Adjustment.

Sec.3: The Board of Adjustment shall consist of three (3) members, all by appointment of the Kanabec County Board of Commissioners, at least one of whom shall be from the unincorporated area of the county. One member shall be of the planning commission. The current representation is to be set forth by separate resolution to fill the denoted positions.

	Current Term	
<u>Appointee:</u>	<u>Expires:</u>	
Position "A":	01/06/02	Planning Commission Member
Position "B":	01/01/01	Unincorporated Area
Position "C":	01/06/02	Regular Member
Position "D":	01/06/02	Alternate

Sec.4: The appointment to the board or representatives and their alternates may be removed by the County Board for non-performance of duty or misconduct in office. Any vacancies created by such removal for any reason may be filled by appointment by the Kanabec County Board.

**ORDINANCE #21**  
**AN ORDINANCE RELATING TO THE SURFACE USE OF**  
**KNIFE LAKE, KANABEC COUNTY, MINNESOTA**

Be it ordained and enacted by the Kanabec County Board of Commissioners, State of Minnesota, that these amendments following, by this act, hereby replace and nullify those like numbered clauses now existing and a part of Kanabec County Ordinance No. 21, or are newly enacted sections which, upon their enactment, become a part of Kanabec County Ordinance No.21.

**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 Knife Lake in Kanabec County, Minnesota, said bodies of water being located entirely within the boundaries of Kanabec County, to promote its fullest use and enjoyment by the public in general and the citizens of Kanabec 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 Kanabec County, Minnesota.

**Section 2.: DEFINITIONS:** Terms used in this ordinance related to boating are defined in M.S. § 86B.005.

**Section 3.:** There shall be and is hereby established a No Wake Zone on Knife Lake, Kanabec County, Minnesota, between the area near the inlet and outlet of Knife River on Knife Lake, Kanabec County, Minnesota.

**Section 4.:** The Kanabec County Sheriff's Office shall place buoys in the channel northeasterly from the Kanabec County SAH 19 bridge approximately 1,000 feet, and in Knife River west of its inlet to Knife Lake approximately 400 feet .

**Section 5.:** No one shall operate a watercraft in the area of the buoys near the inlet or outlet of Knife River to Knife Lake at a speed which causes a wake, or 5 knots, whichever is slower.

**Section 6.: ENFORCEMENT:** The Primary responsibility for enforcement of this ordinance shall rest with the Kanabec County Sheriff's Department. This, however, shall not preclude enforcement by other licensed peace officers.

**Section 7.: 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 8.: PENALTIES**

**Subd. 1.** First offense in one year shall be guilty of a petty misdemeanor with a minor



penalty of \$200.00.

**Subd. 2.** A subsequent violation with in a given year shall be guilty of a misdemeanor with a maximum penalty of a \$1,000 fine and 90 days in jail or both.

**Section 7.: EFFECTIVE DATE:** This Ordinance shall be in effect from and after the date of its publication which is June 21, 2012.

# Ordinance No. 23

## Kanabec County

### AGGREGATE REMOVAL TAX ORDINANCE

An Ordinance, imposing a production tax on the removal of aggregate from pits, quarries, or deposits located within the County; establishing reports requirements; providing penalties for failure to comply with the provisions of this ordinance; and providing for distribution of revenues collected under this ordinance, pursuant to Section 298.75 Minnesota Statutes 2015.

#### **THE COUNTY BOARD OF KANABEC COUNTY ORDAINS:**

- 1.00 DEFINITIONS The following words and phrases, when used in this ordinance, unless the content clearly indicates otherwise, shall have the meanings given them in this section.
- 1.01 “Aggregate material” shall mean non-metallic natural mineral aggregate including, but not limited to, sand, silica sand, gravel, crushed rock, limestone, granite and borrow, but only if the borrow is transported on a public road, street, or highway. Aggregate material shall not include dimension stone and dimension granite. Aggregate material must be measured or weighed after it has been extracted from the pit, quarry, or deposit.
- 1.02 “Person” shall mean any individual, firm, partnership, corporation, organization, trustee, association or other entity.
- 1.03 “Operator” shall mean any person engaged in the business of removing aggregate from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the use of the aggregate in a marketable product or service.
- 1.04 “Importer” shall mean any person who buys aggregate material produced from a county not listed in section 1.05 or another state and causes the aggregate material to be imported into Kanabec County.
- 1.05 "County" means a county imposing the tax under this section on December 31, 2014, or any other county whose board has voted after a public hearing to impose the tax under this section and has notified the commissioner of revenue of the imposition of the tax.
- 1.06 “Extraction Site” shall mean a pit, quarry, or deposit containing aggregate and any contiguous property to the pit, quarry or deposit which is used by the operator for stockpiling the aggregate.

1.07 “Borrow” shall mean granular borrow, consisting of durable particles of gravel and sand, crushed quarry or mine rock, crushed gravel or stone, or any combination thereof, the ratio of the portion passing the (#200) sieve divided by the portion passing the (1 inch) sieve may not exceed 20 percent by mass.

2.00 IMPOSITION OF TAX

2.01 A county that imposes the aggregate production tax shall impose upon every operator a production tax of 21.5 cents per cubic yard or 15 cents per ton of aggregate material excavated in the county except that the county board may decide not to impose this tax if it determines that in the previous year operators removed less than 20,000 tons or 14,000 cubic yards of aggregate material from that county. The tax shall not be imposed on aggregate material excavated in the county until the aggregate material is transported from the extraction site or sold, whichever occurs first. When aggregate material is stored in a stockpile within the state of Minnesota and a public highway, road or street is not used for transporting the aggregate material, the tax shall not be imposed until the aggregate material is sold, or it is transported from the stockpile site, or it is used from the stockpile, whichever occurs first.

2.02 Any operator who removes for sale aggregate from a pit, quarry, or natural deposit located within this County shall pay a production tax thereon. The tax shall be imposed when the aggregate is transported from the extraction site, provided however, that when in the case of storage the stockpile is within the State of Minnesota and the highways are not used for transporting the aggregate, the tax shall be imposed when the aggregate is sold.

2.03 Any importer who buys aggregate material produced from a county other than those included in section 1.05 shall pay the production tax on the material so imported. This tax is due when the aggregate material is imported into Kanabec County.

2.04 In the event that the aggregate is transported directly from the extraction site to a waterway, railway, or another mode of transportation other than highway, road, or street, the tax imposed by this section shall be apportioned equally between the county where the aggregate is extracted and the county to which the aggregate is originally transported. If that destination is not located in Minnesota, then the county where the aggregate was extracted shall receive all of the proceeds of the tax.

2.05 The Kanabec County Board may by resolution exempt the first 575 tons or 400 cubic yards per year on those operators who have removed in Kanabec County or importers who have imported into Kanabec County less than 575 tons or 400 cubic yards of aggregate material.

3.00 REPORTING REQUIREMENTS

- 3.01 By the 14th day following the last day of each calendar quarter, every operator selling aggregate removed from operator's extraction site during said quarter, must file with the County Auditor/Treasurer a report under oath stating the quantity of aggregate so removed. The report shall be accompanied by a remittance of the amount of tax due. If any of the proceeds of the tax are to be apportioned as provided in section 2.04, the operator shall also include on the report any relevant information concerning the amount of aggregate transported, the tax, and the county destination. The county Auditor/Treasurer shall remit the tax to the appropriate county within 30 days of the receipt of the tax by Kanabec County.
- 3.02 If the County Auditor/Treasurer has not received the report by the 15<sup>th</sup> day after the last day of each calendar quarter from the operator or importer as required by section 3.01 or has received an erroneous report, the County Auditor/Treasurer shall estimate the amount of tax due and notify the operator or importer by registered mail of the amount of tax so estimated within the next 14 days. An operator or importer may, within 30 days from the date of mailing the notice, and upon payment of the amount of tax determined to be due, file in the office of the County Auditor/Treasurer a written statement of objections to the amount of taxes determined to be due. The statement of objections shall be deemed to be a petition within the meaning of Minnesota Statutes Chapter 278, and shall be governed by sections 278.02 to 278.13.

#### 4.00 VIOLATIONS AND PENALTIES

- 4.01 Failure to file the report and submit payment shall result in a penalty of \$5 for each of the first 30 days, beginning on the 15th day after the last day of each calendar quarter, for which the report and payment is due and no statement of objection has been filed as provided in subdivision 4, and a penalty of \$10 for each subsequent day shall be assessed against the operator or importer who is required to file the report. The penalties imposed by this subdivision shall be collected as part of the tax and credited to the county revenue fund. If neither the report nor a statement of objection has been filed after more than 60 days have elapsed from the date when the notice was sent, the operator or importer who is required to file the report is guilty of a misdemeanor.
- 4.02 It is a misdemeanor for any operator to remove aggregate from a pit, quarry, or deposit unless all taxes due under this ordinance for the previous reporting period have been paid or objections thereto have been filed pursuant to section 3.02.
- 4.03 It is a misdemeanor under this ordinance for the operator or importer who is required to file a report to file a false report with intent to evade the tax. This provision does not alter the consequences of a violation of state law.

#### 5.00 DISTRIBUTION OF REVENUES

5.01 All moneys collected as taxes under this ordinance shall be deposited in the county treasury and credited as follows, for expenditure by the county board:

- (a) The county auditor shall retain an annual administrative fee of up to five percent of the total taxes collected in any year.
- (b) The remaining funds shall be allocated in the following manner:
  - i. 42.5 percent to the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges;
  - ii. 42.5 percent to the general fund of the city or town in which the mine is located, or to the county, if the mine is located in an unorganized town, to be expended for maintenance, construction and reconstruction of roads, highways and bridges; and
  - iii. 15 percent to the general fund of the city or town in which the mine is located, or to the county, if the mine is located in an unorganized town, to be expended for maintenance, construction and reconstruction of roads, highways and bridges or to a fund to restore abandoned pits.

If there are no abandoned pits, quarries or deposits located within the county, this portion of the tax shall be used for any other unmet reclamation need or for conservation or other environmental needs.

In the event that there are no abandoned pits, quarries, or deposits located upon public or tax forfeited lands within the county, this portion of the tax shall be deposited in the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges.

5.02 The County Auditor/Treasurer or its duly authorized agent may examine records, including computer records, maintained by an importer or operator and pit owners. The term "record" includes, but is not limited to, all accounts of an importer or operator. The County Auditor/Treasurer must have access at all reasonable times to inspect and copy all business records related to an importer's or operator's collection, transportation, and disposal of aggregate to the extent necessary to ensure that all aggregate material production taxes required to be paid have been remitted to the county. The records must be maintained by the importer or operator for no less than six years.

## 6.00 SEVERABILITY

6.01 It is hereby declared to be the intention of the County board that this ordinance, and every provision thereof, shall be severable in accordance with the following:

- a) If any Court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.
- (b) If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular pit, quarry, deposit, or operator such judgment shall not affect the application of said provision to any other pit, quarry, deposit, or operator not specifically included in said judgment.

7.00 PROVISIONS ARE ACCUMULATIVE

7.01 The provisions of this ordinance are cumulative to all other laws, ordinances, and regulations hereto passed, or which may be passed hereafter, covering any subject matter in this ordinance.

8.00 EFFECTIVE DATE

8.01 This ordinance shall be effective January 1, 2017.

8.02 Passed by the Kanabec County Board of Commissioners, July 6, 2016.

An official copy of this Ordinance is on file in the office of the Kanabec County Coordinator, 18 North Vine Street, Suite 181, Mora, Minnesota.

Attest: \_\_\_\_\_  
Patrick Christopherson  
County Coordinator

\_\_\_\_\_  
Gene Anderson, Chairperson  
Board of County Commissioners

The County Board of Commissioners of Kanabec County ordains:

# **ORDINANCE #24**

## **ADULT USE ORDINANCE**

### **1.01 STATEMENT OF FINDINGS**

The Kanabec County Board of Commissioners finds it necessary to provide for the regulation of businesses or commercial enterprises, which operate as Adult Uses, hereinafter defined. There are currently no permanently established Adult Use businesses within Kanabec County located beyond the limits of an incorporated City. The ordinance shall apply to municipalities that have requested inclusion pursuant to Minn. Stat. 394.24. The Kanabec County Board of Commissioners recognizes that Kanabec County has experienced an increase in residential and commercial development and that, with this increase; it is necessary to examine and anticipate the impact of Adult Uses on Kanabec County.

The Kanabec County Board of Commissioners makes the following findings regarding the likely effect of Adult Uses on the character of the County's neighborhoods. These findings are based upon the experiences of and reports and/or studies performed in other communities, reviewed in adopting these provisions, as well as evidence and testimony presented at public hearings, applicable state and federal judicial decisions (as set forth in appendix A, B, C, D and E), in addition to the Board's knowledge of actual conditions within Kanabec County and surrounding counties. The following findings are reached in addition to those set forth in the resolution accompanying this Ordinance, incorporated herein.

1. The Kanabec County Board of Commissioners finds that Adult Use businesses have the propensity to produce adverse secondary effects on their surrounding communities. Such adverse secondary effects include, but are not limited to, increased acts of prostitution, illicit sex, violent and other crimes, as well as public health problems presented by live entertainment, deterioration and blighting of adjacent land uses, and loss in property values and tax base.
2. Special regulation of Adult Uses is necessary to ensure that the adverse secondary effects will not contribute to or enhance criminal activity in the area of such uses, nor will it contribute to public health risks, blighting or downgrading of the surrounding property and lessening of its value.
3. The risk of secondary effects increases when such Adult Uses are accessible to minors and are located near residential property or when Adult Uses become concentrated in a particular geographic area. The nature of Adult Uses suggests that they should not be allowed within certain zoning districts or within certain distances from each other and/or residential uses.

4. The Kanabec County Board of Commissioners finds that the most effective way to reduce the adverse impact of harmful secondary effects, while allowing a reasonable opportunity for such businesses to exist, is to disperse such businesses throughout the county and to locate such businesses in areas with lower population density or with fewer sensitive uses including, but not limited to, daycare providers, foster care facilities, schools, libraries, parks or environmentally sensitive land uses.
5. The Kanabec County Board of Commissioners recognizes that by permitting Adult Uses in all areas but those with exceptional environmental concerns or land use conflicts, subject to the restrictions provided herein, the number of site locations for these uses is increased while at the same time providing for the disbursement of these uses from each other and those uses found to be vulnerable to their secondary effects.
6. The potential dangers to the health, safety and general welfare associated with Adult Uses require the County to establish a system of regulation for Adult Uses beyond consideration of their location in the community. The Kanabec County Board of Commissioners finds that the risk of secondary effects can be minimized through a licensing and regulatory arrangement as provided herein.
7. The concurrence of the sale and/or consumption of alcoholic beverages with Adult Uses leads to an increase in criminal activity and exacerbates neighborhood deterioration when in or near Adult Use establishments. Based on the recommendations of the studies considered, the Kanabec County Board of Commissioners believes it is necessary and advisable to prohibit the sale and consumption of alcoholic beverages in Adult Use establishments and near where these Adult Use activities occur.
8. Any form of physical contact between employees and/or patrons of Adult Use establishments featuring live entertainment increases the likelihood of spreading communicable and sexually transmitted diseases, which in turn poses a threat to the health and safety of the community and the participants. Requiring entertainers to remain on an elevated stage at least six feet away from patrons will serve to protect the public by discouraging direct physical contact.
9. The practice of requiring entertainers to earn their income from tips or gratuities encourages the exchange of money for prostitution or the exchange of illegal controlled substances, thereby contributing to the increased level of criminal activity associated with Adult Uses. The Kanabec County Board of Commissioners finds that it is necessary and reasonable to prohibit the exchange of pay or gratuity, in any form, exceeding that income which is provided to entertainers.



10. Without proper regulation, Adult Use businesses may fail to give regard to the appearance of signage associated with these businesses, depreciating the value of surrounding properties and further contributing to neighborhood blighting. Based on the recommendations of the studies considered, the Kanabec County Board of Commissioners finds that regulating Adult Use signage, including restrictions on placement, size and appearance, is appropriate and addresses harmful secondary effects while protecting the operator's right to advertise.
11. Requiring licensees to provide information about themselves and employees will help reduce the incidents of criminal behavior by facilitating the identification and applicable criminal history of these individuals in recent years. In addition, it will provide a safeguard by preventing minors from working in such establishments.
12. It is necessary to have a licensed manager on the premises of establishments offering adult entertainment at such times as such establishments are offering adult entertainment so that there will, at all necessary times, be an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers and other employees.
13. The Kanabec County Board of Commissioners finds that a licensing fee, which includes the costs of conducting a thorough but prompt investigation and review of license applications will facilitate the purposes listed in Paragraph 11. Requiring reasonable license fees is in recognition of the costs involved in processing license applications and accounting for County services further taxed by monitoring Adult Uses within the community.
14. Licensees of Adult Uses should be subject to penalties for allowing violations of this ordinance, and any other Kanabec County ordinance or other applicable law, in order to discourage violations of the law for purposes of increasing profit to the detriment of the surrounding community. Suspension or revocation of licenses based upon violation of applicable law, upon adequate proof at administrative proceedings of the occurrence of such acts, will serve to protect the community by deterring or ending the use of the establishment for criminal acts or acts which violate an ordinance.
15. Suspension and revocation procedures in the licensing of Adult Uses will be undermined if they could be avoided by licensees incorporating under new names or by attempts to transfer licenses or change control of land or the establishment. The Kanabec County Board of Commissioners finds that it is appropriate to restrict Adult Use licenses under any of these circumstances.
16. Permitting licensees recourse to the County Board and/or prompt judicial review for denial, suspension, or revocation of a license will permit the County to preserve its interest in protecting the health, safety and general welfare of its citizens against the secondary effects of Adult Uses while simultaneously safekeeping the rights of the licensee or applicant.

## **1.02 PURPOSE**

The purpose of this Ordinance is to preserve and protect the quality of life, health, safety and general welfare of the citizens of Kanabec County, while providing a reasonable opportunity for such Adult Use businesses to exist and operate within the County. It is not the intent of the Kanabec County Board of Commissioners to regulate these businesses on the basis of the expression of unpopular views or otherwise protected activities, but rather on the basis of likely adverse secondary effects associated with Adult Uses.

## **1.03 DEFINITIONS**

1. The following terms used throughout this ordinance are hereby defined:
  - A. **SPECIFIED ANATOMICAL AREAS.** As used herein, Specified Anatomical Areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or the full-areola, including nipple, of the female breasts; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
  - B. **SPECIFIED SEXUAL ACTIVITIES.** As used herein, Specified Sexual Activities means and includes any of the following: (1) physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification; (2) an act of sexual intercourse, actual or simulated including genital-genital, anal-genital or oral-genital, whether between human beings or between a human being and an animal; (3) masturbation, actual or simulated; (4) excretory functions as part of or in connection with any of the activities in an Adult Use establishment; (5) lewd exhibitions of the genitals; or (6) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts inflicted by or upon a person who is nude or in a state of nudity as defined in 1.03 subd.(6) of this ordinance.
2. **ADULT USES.** An establishment, business or other commercial enterprise consisting of, including, or having the characteristics of any or all of the following:
  - A. **ADULT ARCADE.** An establishment, business or other commercial enterprise, where, for any form of consideration, one or more motion picture projectors, slide projectors, video cassette players, digital disk players, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of Specified Sexual Activities or Specified Anatomical Areas both as herein defined.

- B. **ADULT BOOKSTORE.** An establishment, business or other commercial enterprise engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, videodiscs or motion picture film when any or all of the materials previously mentioned are distinguished or characterized by an emphasis of the depiction or description of Specified Anatomical Areas or Specified Sexual Activities both as herein defined. An establishment, business or other commercial enterprise shall be defined as an “Adult Bookstore” if a substantial or significant portion of its merchandise or stock in trade comes from the distribution or sale of the materials described above.
  - C. **EXOTIC DANCE STUDIO.** A night club, bar, restaurant, or similar commercial establishment, or any premises or facility to which any member of the public is invited or admitted and where an entertainer provides live performances to any member of the public, which performances are characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities,” or which emphasize and seek to arouse or excite the patron’s sexual desires.
  - D. **ADULT MOTION PICTURE ARCADE.** An establishment, business or other commercial enterprise wherein the public is permitted to enter allowing access and use of coin, token or slug-operated, whether electronically, electrically or mechanically controlled, motion picture machines, projectors or other image producing devices maintained to depict, describe or display, or with an emphasis on depicting, describing or displaying Specified Anatomical Areas or Specified Sexual Activities both as herein defined.
  - E. **ADULT MOTION PICTURE THEATER.** An establishment, business or other commercial enterprise engaged in the business of presenting film, video tape or other similar motion pictures, which excludes minors from the premises, or which is distinguished or characterized by its emphasis on matter displaying, depicting, describing, or relating to Specified Anatomical Areas or Specified Sexual Activities both as herein defined.
  - F. **ADULT SAUNA, STEAM ROOM OR BATHHOUSE FACILITY.** An establishment, business or other commercial enterprise providing a steam or heat room or heated bathing facility that is distinguished or characterized by an emphasis on displaying, depicting, describing, or relating to Specified Anatomical Areas or Specified Sexual Activities both as herein defined.
  - G. **ADULT THEATER.** A theater, concert hall, auditorium, or similar establishment characterized by emphasis on Specified Anatomical Areas or Specified Sexual Activities both as herein defined.
3. **ENTERTAINER.** Any person who provides adult entertainment within an exotic dance studio as defined in this ordinance whether or not a fee is being charged.

4. **LICENSEE.** Each individual that is required to sign the application is considered a Licensee upon approval of the License.
5. **MANAGER.** Any person appointed by an owner or operator of an adult entertainment business who manages, directs, administers or is in charge of the conduct or operation of an adult entertainment business and includes assistant managers.
6. **NUDITY OR STATE OF NUDITY.** Nudity or state of nudity means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering of any part of the female areola and nipple.
7. **NUDE MODELING STUDIO.** Any place where a person who appears seminude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Minnesota or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:
  - a. that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing; and
  - b. where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
  - c. where no more than one nude or seminude model is on the premises at any one time.
8. **OPAQUE.** Opaque shall mean impervious clothing, having capacity to block out or obstruct the visual image of an object.
9. **SEMINUDE.** Seminude shall mean a state of dress in which any opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple of the female breast as well as portions of the body covered by supporting straps or devices.
10. **SEXUAL CONTACT.** The intentional touching between a patron, an entertainer, or an employee involving the contact by or with a patron’s, entertainer’s, or employee’s sexual organ, buttock(s), or breast(s), whether covered or not, or kissing, when such contact can reasonably be construed as being for the purpose of sexual arousal or sexual gratification of either party or any observer.

11. SIGN. Any display, design, pictorial, or other representation, which shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same is visible from the outside of an Adult Use business and that is used to seek the attraction of the public to any goods, services or merchandise available at such Adult Use business. The term “sign” shall also include such representations painted on or otherwise affixed to any exterior portion of an Adult Use business as well as such representations painted on or otherwise affixed to any part of the tract upon which such an Adult Use business is situated. The term “sign” as used in this Ordinance means signs that are on the Adult Use business’s premises and not billboards or other advertisements that are not on the Adult Use business’s premises.

#### **1.04 LICENSED USE**

1. Adult Uses are allowed as a Licensed Use, subject to the requirements of this Ordinance.
2. Adult Uses shall not be established or maintained except as a licensed, permitted, conditional, or accessory use as provided for in this ordinance and other applicable ordinances.

#### **1.05 LICENSE REQUIRED**

1. It is unlawful for any person to conduct, manage, or operate an adult use establishment unless such person is the holder of a valid and subsisting license from the county to do so, obtained in the manner provided in this chapter.
2. The license shall be posted in a conspicuous, public place on the premises of the Adult Use.
3. The license is valid only for the space as specifically defined in the license. The license is not transferable from the Licensee(s) to another individual or entity.
4. Each license is valid for only one Adult Use Purpose as outlined in section 1.03 Subd. 2, clauses A through G of this ordinance, as was listed and requested on the license application.
5. No person shall work as a manager of an exotic dance studio, adult arcade, adult motion picture theater, or other adult entertainment businesses providing onsite entertainments without having first obtained a manager’s license from the county, the purposes being to require licensed managers at adult entertainment business establishments to monitor the conduct of patrons viewing adult entertainment on the premises and ensure compliance with this chapter. Onsite entertainment includes, but is not limited to, live entertainment, the viewing of films and videos and other such

entertainment on the premises, whether or not for a fee or other consideration, as opposed to strictly the sales or rental of adult books, magazines, novelties and videos.

## **1.06 LICENSE APPLICATION**

### **1. General Requirements**

- A. Application for an Adult Use Establishment or Manager license shall be made to the Kanabec County Environmental Services Department on a form provided by the County.
- B. To be considered complete, the license application must contain all required information and be submitted with all required fees.
- C. County shall not accept an incomplete application. Within fifteen (15) days of submission of an application, the County shall notify the applicant if the application is incomplete.
- D. All applications for an adult entertainment business license for places, that offer adult entertainment shall be submitted in the name of the person or entity proposing to conduct such adult entertainment on the businesses premises.

### **2. Identifying Information**

- A. Individual applicants and Manager License applicants must provide their full name, any aliases or formerly used names, date of birth, and address.
- B. Partnership applicants must provide the following information for each partner who is involved in the adult use establishment's daily business: full names, any aliases or formerly used names; name of the partnership; any formerly used name of the partnership; dates of birth; and addresses. For each partner who is involved in the adult use establishment's daily business, partnership applicants must also provide a statement of the percent of business owned by such partner.
- C. Corporate applicants must provide the full name of the corporation; any formerly used name of the corporation; the date of incorporation and State where the business is incorporated; the name, address, and telephone number of the corporation's designated representative in the State; a copy of the Certificate of Incorporation and its Articles of Incorporation; evidence that the corporation is entitled to do business in the State of Minnesota; and the full names, any aliases, and formerly used names, the dates of birth, and addresses of each corporate officer and director.

D. All applicants for Adult Use Establishment Licenses shall provide all of the following information:

1. Identifying Information as specified in section 1.06(2).
2. Statement detailing whether the individual has been convicted of any of the following crimes whether as a misdemeanor, gross misdemeanor, or felony:
  - a. prostitution (Mn Stat. 609.321);
  - b. solicitation, inducement and promotion of prostitution (Mn Stat. 609.322);
  - c. other prostitution crimes (Mn Stat.609.324);
  - d. disorderly house involving prostitution or acts relating to prostitution (Mn Stat.609.33,subd.1(3));
  - e. criminal sexual conduct (Mn Stat.609.342, 609.343, 609.344, 609.345 or 609.3451);
  - f. solicitation of children (Mn. Stat. 609.352); or
  - g. any violation of any statute from any another jurisdiction whose elements are conformity with the above-listed crimes and/or the operation of Adult Uses; prostitution; and/or solicitation, inducement, and promotion of prostitution;
3. Signed release(s) requested by the Kanabec County Sheriff and/or State and County agencies that will be used for purposes of investigating and verifying applicant information as provided for in this Ordinance. Said releases will be used to ascertain information requested in subparagraph (4) above.
4. A statement detailing whether applicant(s) ever applied for or held a license to operate a similar type of business in other counties, municipalities, or states.
5. A statement detailing the purpose for the Adult Use license, as outlined in section 1.03 Subd. 2, clauses A through G of this ordinance;

E. All Manager License Applicants shall provide the following information

1. Full name(s) and any aliases or formerly used names, date(s) of birth, and address(es);
2. The following employment information for the past three years: the name of the business, the business address, the business phone number, the name of immediate supervisor; and dates of employment.

3. Statement detailing whether the manager has been convicted of any of the offenses listed in 1.06 Subd. 2 (D)(4);
  4. Statement detailing whether the manager(s) and/or other person(s) in charge ever applied for a license but was/were denied, or held a license that was suspended or revoked to operate a similar type of business in other counties, municipalities, or states with specific detail of the date of application and location.
  5. Upon request by the Kanabec County Sheriff's Office or any applicable State or County authority, Applicant(s) shall obtain all necessary signed releases from the manager(s) or other person(s) who will be in charge of the premises while it is open for business for purposes of verifying such information as required herein.
- F. Each applicant is requested to provide their social security number. Pursuant to its power to regulate businesses which operate as Adult Uses, the County requests the applicant's social security number for the purpose of conducting a thorough background check on the applicant(s). The disclosure of the applicant's social security number is voluntary.
3. Adult Use Establishment Information. All applicants shall provide all of the following information regarding the Adult Use for which the license is sought:
    1. Address at which the licensed Adult Use will be operated;
    2. Legal description of the parcel upon which the adult use will be operated;
    3. Name to be used by the licensed Adult Use;
    4. Hours of operation;
    5. Provisions made to restrict access by minors;
    6. Activities and type of business to be conducted;
    7. Building plan of the premises, drawn to scale, showing the type of activities which will be conducted in each area of the business including but not limited to the performance or display areas, seating areas, restrooms, service areas, and non-public areas. This requirement is for purposes of assisting enforcement personnel performing inspection or enforcement; and



8. Site plan showing location of all structures, roads, driveways, parking areas, utilities, easements, water and sewer systems, proposed signs on the parcel intended to be licensed.

#### **1.07 PERSONS INELIGIBLE FOR LICENSE**

1. The County shall not grant an Adult Use Establishment or Manager license to nor may one be held by any person who:
  - A. Is under eighteen (18) years of age;
  - B. Has been convicted of any of the crimes listed in 1.06 Subd. 2(D) of this ordinance, within the past three (3) years, whether in Minnesota or another jurisdiction;
  - C. Has had an Adult Use or similar permit or license revoked under an ordinance or statute similar to this Ordinance within the past three (3) years;
  - D. Has provided false or misleading information in the material submitted during the application process as prohibited by this Ordinance.
  - E. For Adult Use Establishment License:
    1. Is not an individual, partnership, or corporate applicant of the establishment for which the license is issued;
    2. Has not paid the license and investigative fees required by this Ordinance;

#### **1.08 LICENSE FEES**

1. An application shall not be deemed complete unless it is accompanied by the required Fee for License, Initial Investigation and Renewal License Investigation, as set by the County.
2. The Kanabec County Board of Commissioners shall establish the annual license fee by resolution.

#### **1.09 APPLICATION EXECUTION AND VERIFICATION**

1. Execution. All applicant(s) shall sign and swear, subject to the penalties for perjury, that:
  - A. The information contained in the application is true and accurate; and

- B. The applicant(s) have received, read, and understand the terms, conditions, and responsibilities contained in this ordinance, and
  - C. The applicant(s) shall abide by and remain consistent with all requirements of other applicable ordinances, codes and statutes and this Adult Use Ordinance as it pertains to the applicant(s) business operation.
2. Verification.
- A. The Kanabec County Sheriff, and applicable State and/or County entities shall investigate and verify the information contained in the initial license application and renewal application information.
  - B. The Kanabec County Sheriff shall submit a written report and recommendation to Kanabec County Environmental Services Director with regard to the issuance/renewal or non-issuance/renewal of a license.
  - C. The County may order and conduct such additional investigation, as it deems necessary.

**1.10 LICENSE ISSUANCE OR NON-ISSUANCE**

1. Approval.
- A. Within sixty (60) days of receipt of a completed application, the Kanabec County Board of Commissioners shall approve or deny the license application. The Board must approve the license for any person that is not determined ineligible according to Section 1.07.
    - 1. An extension of time may be granted in accordance with Minn. Stat. 15.99, subd. 3(f). The County may extend the time limit to approve or deny the license application before the end of the 60-day period by providing written notice of the extension to the license applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant.
  - B. Issuance After Approval
    - 1. If a license is granted, each individual that is required to sign the application is considered a Licensee.
    - 2. After approval, the Licensee(s) may obtain the license by appearing in person at the Kanabec County Environmental Services Department, by scheduled appointment, no earlier than seven (7) days after the date of the approval of the license by the County Board of Commissioners.

3. A Licensee shall not transfer their license to another.
4. The license is valid only for the business establishment located at the address designated in the application.

2. Denial

- A. If the Kanabec County Board of Commissioners denies the license application, such denial shall be submitted to the applicant(s) in writing, sent by certified U.S. Mail to the address(es) contained in the application; along with an Affidavit of Service. Written denial shall be sent no later than sixty (60) days from receipt of a completed application, in accordance with this Ordinance.
- B. The written notice of denial shall contain specifically identified reasons for the denial.

**1.11 LICENSE TERM, EXPIRATION, AND RENEWAL**

1. **TERM.** All licenses are valid for a period of one calendar (1) year. If a license application is submitted when part of the license year has elapsed, the County shall issue a license for the remainder of the year.
2. **EXPIRATION.** All licenses shall expire on December 31 of each year.
3. **RENEWAL.** Licensees may apply for a renewal of the license as follows:
  - A. Renewal application shall be made no later than October 30 of each year.
  - B. Renewal applications shall be in substantially the same form as the initial application with any changes, modifications, and/or additions made as appropriate.
  - C. The renewal application shall not be considered complete and will not be accepted until the annual license fee is paid.

**1.12 REGULATIONS**

1. **SETBACKS.**
  - A. Adult Uses shall be located at least one thousand (1,000) radial feet, as measured in a straight line from the closest point of the property line upon which the Adult Use is located to the closest point on the property line of any of the following:

1. A dwelling predominantly used for residential purposes.
2. A licensed daycare center, family daycare, or group family daycare as defined by Minnesota Statute 245A.09;
3. A school;
4. A public library;
5. A public park;
6. Another Adult Use Establishment;
7. An on or off-sale liquor establishment;
8. A church;
9. Within 1,000 feet or within the area encompassing area of the Shoreland Management areas of Kanabec County;
10. Any government building; and
11. Boundaries of any state park, state forest, state wildlife management area, federal wildlife management area.

B. This Section contains standards that are additional to those set forth in any applicable local code or ordinance or state statute. Minimum setbacks from roads, building limitations, as well as minimum lot and building dimensions, shall be determined by referring to the specific standards set forth in any other applicable code, ordinance or statute. In the event of a conflict between the setbacks listed in this section and those listed in other appropriate code, ordinance or statute, the most restrictive provision will apply.

## 2. LIVE ADULT ENTERTAINMENT.

A. Adult Use Business Employee Conduct. It is unlawful for any adult use business licensee or adult use business employee to knowingly or intentionally:

1. Allow persons under the age of 18 on the business premises.
2. Allow, offer or agree to gambling on the business premises.
3. Allow, offer or agree to the illegal possession, use, sale or distribution of controlled substances on the licensed premises;

4. Permit, commit, offer or agree to commit prostitution, solicitation of prostitution;
  5. Permit, commit, offer or agree to permit any specified sexual activity as defined in 1.03 Subd. (1) (B) of this ordinance;
  6. Permit, offer or agree to permit a patron or customer to masturbate within or upon the premises of an adult use business.
  7. Appear in a state of nudity before a patron on the premises of the adult use business, as defined in 1.03 Subd. (6) of this ordinance.
  8. Refuse to permit officers or agents of Kanabec County who are performing functions connected with the enforcement of the ordinance to inspect the portions of the adult use business premises where patrons are permitted, for the purpose of ensuring compliance with this ordinance, at any time the adult use business is occupied by patrons or open for business. An employee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this ordinance. The provisions of this section do not apply to areas of an adult motel currently being rented by a customer for use as permanent or temporary habitation.
  9. Allow consumption or distribution of alcoholic beverages on the premises of the adult use business.
- B. Stage Requirements. It shall be a violation of this ordinance for an Adult Use Business to knowingly or intentionally allow an entertainer to appear in a state of semi-nudity unless the entertainer is at least six feet from patrons and customers and on a stage at least two feet from the floor.
- C. Entertainer Prohibited Activities. It is unlawful for any entertainer during a performance in any establishment requiring a license as an exotic dance studio pursuant to this ordinance:
1. To touch in any manner any other person in any specified anatomical area as defined in section 1.03, Subd. 1, (A) of this ordinance;
  2. To throw any object or clothing off the stage area;
  3. To accept any money, drink or any other object directly from any person;
  4. To allow another person to touch such entertainer or to place any money or object on the entertainer or within the costume or person of the entertainer;

5. For the entertainer to place anything within the costume or adjust or move the costume while performing so as to render the entertainer in a state of nudity; or

6. To engage in any specified sexual activity.

D. Entertainer Costume Requirement. It is unlawful for entertainers in exotic dance studio to fail to comply with the following costume requirements:

1. No entertainer shall appear on stage in any business required to be licensed as a adult use business during a performance in a state of nudity and, in the case of a female entertainer, the areola and nipple of such entertainer shall be completely covered with opaque clothing in a shape and color other than the natural shape and color of the nipple and areola.

2. While not performing and on the portion of a business licensed as an adult use business used by patrons, entertainers shall be dressed in opaque clothing covering the entertainer's buttocks and pubic area and, in the case of a female the breasts.

E. Activities of Patrons. It is unlawful for any patron to knowingly or intentionally:

1. Touch in any manner an adult use business entertainer while the adult use business employee is semi-nude,

2. Place any money or object on or within the costume or person of any entertainer while is the entertainer is semi-nude, or

3. Appear in a state of nudity before any another person on the premises of an adult use business.

F. Responsibility of the Manager.

1. A licensed manager shall be on duty at an adult use establishment at all times adult entertainment is being provided or members of the public are present on the premises. The name and license of the manager shall be prominently posted during business hours.

2. The licensed manager on duty shall not be an entertainer.

3. The manager licensed under this ordinance shall maintain visual observation of each member of the public at all times any entertainer is present in the public or performance areas of the adult use establishment. Where there is more than one performance area, or the performance area is of such size or configuration that a manager is unable to visually observe, at all times, each adult entertainer, each

employee, and each member of the public, a manger licensed under this ordinance shall be provided for each public or performance area or portion of a public or performance area visually separated from the other portion of the adult use establishment.

4. The manager shall be responsible for and shall assure that the actions of the members of the public, the adult entertainers and all other employees shall comply with all requirements of this ordinance.

G. Violation by non-licensed entity.

1. It is unlawful for any individual or entity to furnish, book, or otherwise engage or permit any person to perform as a professional dancer, model, or entertainer in a state of semi-nudity, whether or not compensated, unless that person or entity is licensed pursuant to this ordinance.
2. An entity or individual who operates or causes to be operated an adult use business without a valid license is subject to a suit for injunction in addition to the civil and criminal violations provided herein and any other remedy available at law or in equity.

H. Exemptions. The provisions of this ordinance shall not apply to:

1. Any sex therapist or similar individual licensed by the State of Minnesota to provide bona fide sexual therapy or counseling, a licensed medical practitioner, licensed nurse, psychiatrist, or psychologist while providing professional services for which they are licensed. ,
2. Persons engaged in expressing a matter of serious literary, artistic, scientific, or political value.
3. Venues primarily devoted to the arts or theatrical performances.

3. SIGNS. The following sign regulations shall apply to Adult Uses in Kanabec County:

- A. Adult Uses shall be allowed one (1) sign advertising the establishment.
  1. The sign may be free-standing from the building in which the Adult Use is located and is not to exceed 32 square feet;
- B. The licensed premises shall prominently display a sign at the entrance, located within two (2) feet of the door opening device of the business establishment or section of the establishment devoted to media presentations or live presentations, which states, "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter." The sign shall be in clear, legible letters at least one (1) inch high.

4. **PROHIBITED ADULT USE ACTIVITIES.**
  - A. Activities classified as obscene as defined by Minnesota Statute §617.241 are prohibited.
  - B. Adult Use activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical, or other performance or exhibition presented to the general public where minors are permitted.
  - C. Adult Uses shall be prohibited from locating in any building, which is also utilized for residential purposes.
  - D. Adult Uses shall be prohibited from locating in any building in which another Adult Use is located.
  - E. Adult Uses shall be prohibited from locating in any place, which is also used to dispense or consume intoxicating beverages.
  - F. Adult Uses shall be prohibited if not conducted within an enclosed structure.
5. **HOURS OF OPERATION.** Adult Use establishments may remain open between the hours of 10:00 a.m. and 12:00 midnight. Adult Use establishments shall be closed from 12:01 a.m. to 9:59 a.m.
6. **INSPECTION.** An applicant or licensee shall permit representatives of the law enforcement, health department, fire department, Environmental Services department, or other County departments or agencies to inspect the premises of an Adult Use Establishment at any time it is occupied or open for business for the purpose of insuring compliance with the terms of this Ordinance and the license.
7. Licensee(s) shall inform the Kanabec County Environmental Services of any change in the manager(s) of the licensed business within 10 days of the change and the information shall be provided as soon as possible after that person(s)' hire date.
8. **PARKING.** Licensee(s) shall create and maintain a minimum of off-street parking spaces equal to one (1) parking space per each four (4) persons up to maximum occupancy of the establishment. Parking areas shall be covered with a concrete or bituminous surface.
9. **ACCESS ROADS.** Access roads, including driveways, shall meet the appropriate local road authority requirements.



10. PREMISES SECURITY.

- A. Licensee(s) shall provide adequate security personnel and/or technology for the premises, including the primary structure and parking lot(s).
- B. Adequate security lighting shall be used at doors to the establishment and in the parking lot(s) from sunset to sunrise.

11. INTOXICATING BEVERAGES. Consuming, possessing, or dispensing intoxicating beverages is prohibited on the licensed premises, which includes structure(s) and all lands contained within the legal description of the adult use parcel.

**1.13 NON-CONFORMING USES**

1. An Adult Use Establishment existing on the effective date of the adoption of this Ordinance may be continued subject to the following provisions:

- A. No such use shall be expanded or intensified except in conformity with this Ordinance, subject to all applicable laws including Minnesota Statutes §394.36 and any other applicable code or ordinance.
- B. Within 30 days of the effective date of this ordinance, a non-conforming use must apply for a license from the County.

The non-conforming adult use must demonstrate compliance with all applicable local and state statutes.

- C. Any non-conforming uses shall be eliminated within 24 months of the effective date of this Ordinance.

**1.14 VIOLATION AND PENALTY**

1. Violation. A violation shall consist of:

- A. Failure to comply with any or all of the terms, conditions, and requirements of this Ordinance; or
- B. Refusal to allow inspection of the premises by law enforcement or other designated agents of the Kanabec County Board of Commissioners for purposes of ensuring compliance with the terms of the license.

2. Non-criminal Penalties. The non-criminal penalties for violation(s) shall consist of:
  - A. Penalties for Violation
    1. First Violation: Suspension of license for thirty (30) days. License shall be reinstated on the thirty-first (31<sup>st</sup>) day upon a showing that the violation has been cured.
    2. Second Violation: For the second violation within twelve (12) months of the first violation, the license shall be suspended for ninety (90) days. License shall be reinstated on the ninety-first (91<sup>st</sup>) day upon a showing that the violation has been cured.
    3. Third Violation: For the third violation within twelve (12) months of the first violation, the license shall be revoked.
  - B. Revocation for Cause. License revocation, regardless of the number of prior violations within a twelve (12) month period, shall occur if the County determines that:
    1. A Licensee gave false or misleading information in the material submitted during the application process;
    2. A Licensee knowingly allowed possession, use, or sale of controlled substances or alcohol on the premises;
    3. A Licensee has knowingly allowed prostitution on the premises;
    4. A Licensee knowingly operated an adult entertainment business during a period of time when the licensee's license was suspended;
    5. A Licensee knowingly allowed any Specified Sexual Activities to occur in or on the licensed premises; or
    6. A Licensee is delinquent in payment to the County or State for any taxes or fees past due.
  - C. Effective date of Revocation or Suspension.

The revocation or suspension will take effect on the 11<sup>th</sup> day following delivery of the notice of the license revocation or suspension unless the licensee requests a hearing before the Kanabec County Board of Commissioners in accordance with this Section. If the licensee requests a hearing before the Kanabec County Board of Commissioners, the revocation or suspension will be stayed pending the Board's decision and for the period of time that the licensee has to appeal the Board's decision to a court of competent jurisdiction. If the licensee appeals the Board's decision to a court of competent jurisdiction within the time limits set forth by Minnesota law, the revocation or suspension will be stayed until the court's entry of a judgment.

D. Notice of Suspension or Revocation.

1. Written notice of license suspension or revocation, stating with specificity the fact(s), the ordinance provision(s) violated, and the effective date of suspension or revocation, shall be sent to the Licensee via U.S. certified mail by the Kanabec County Environmental Services Department.

E. Term of License Revocation.

1. If a license is revoked, the period of revocation shall be one (1) year from the date the license is revoked.
  - a. If the County finds that the cause(s) that gave rise to the revocation has been corrected or abated, the County may reduce the revocation period to not less than ninety (90) days from the date of the revocation. The revocation shall not be dismissed and shall be considered a revocation despite the modified revocation period.
2. The Licensee shall not be granted or issued another Adult Use Establishment license in Kanabec County during the revocation period.

F. Review of Suspension or Revocation.

1. Any licensee whose license has been suspended or revoked may request a hearing before the Kanabec County Board of Commissioners by delivering a written request for hearing to the Kanabec County Environmental Services Department within ten (10) days of delivery of the notice of license revocation or suspension.
2. The hearing shall be conducted at a Kanabec County Board of Commissioner's regular meeting but not later than thirty (30) days after the County's receipt of the request for a hearing, unless the time period is extended by agreement of the parties.
3. At the hearing, the County shall present evidence relevant to the reasons for the license suspension or revocation. The Licensee may present evidence showing cause, if any, for vacating the decision to suspend or revoke the license. Any witnesses are subject to cross-examination. An audio taped record of the proceeding shall be kept.
4. The Kanabec County Board of Commissioners shall have the authority to either affirm or vacate the license suspension or revocation. The Kanabec County Board of Commissioners shall provide a written explanation of its decision on the license suspension or revocation to the Licensee within fourteen (14) days of the hearing.

3. Criminal and Civil Penalties.
  - A. A violation of this Ordinance is a misdemeanor, punishable by up to 90 days in jail and a fine up to \$1,000;
  - B. Each violation of this chapter shall require licensee to pay a civil penalty in the amount of \$500. In addition to the civil fines provided in this ordinance, the violation of any provision of this chapter shall be a misdemeanor punishable by the terms of this ordinance. Each violation shall be a separate offense;
  - C. A violation of this ordinance may result in injunctive relief being sought by the county.
4. The County may, at its option, pursue non-criminal and criminal penalties for the same alleged violation event.

**1.15 JUDICIAL REVIEW**

1. An Applicant or Licensee may seek prompt judicial decision of any action of the Kanabec County Board of Commissioners in any court of competent jurisdiction. This shall include a judicial decision involving any denial of application, denial of renewal of application, suspension of license, or revocation of license.

**1.16 REPEALER**

Ordinance #24, Adult Oriented Business, adopted January 14, 2004 is hereby replaced by this ordinance.

**1.17 SEVERANCE CLAUSE**

Should any section, subsection, paragraph, provision, clause or other subpart of this ordinance be found constitutionally defective or otherwise invalid, then such portion(s) found to be invalid shall be severed from this ordinance and all remaining provisions of this ordinance shall remain in full force and effect.

This Ordinance shall become effective on the 3rd day of May, 2007, which is the date of the first publication of this Ordinance in the official newspaper for Kanabec County.

This Ordinance Ordained and Enacted by the Board of County Commissioners of the County of Kanabec, State of Minnesota, on this 25<sup>th</sup> day of April, 2007.

Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 Chair Kanabec County Board of Commissioners

ATTEST: \_\_\_\_\_  
 Alan Peterson, Kanabec County Coordinator

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# **Kanabec County Ordinance #25**

## **ADMINISTRATIVE OFFENSE PROCEDURES**

The County Board of Kanabec County hereby ordains:

### **Subdivision 1. Purpose.**

Administrative Offense Procedures established pursuant to this Ordinance are intended to provide the public and Kanabec County with an informal, cost effective, and expeditious alternative to traditional court actions for violation of certain traffic and criminal offenses.

The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty, as provided for hereafter, the individual may withdraw from participation in the administrative offense procedures in which event the County may bring traffic or criminal charges in accordance with the law.

Likewise, Kanabec County, in its discretion, may choose not to initiate administrative offense procedures and may bring criminal or traffic charges in the first instance.

### **Subdivision 2. Administrative Offense.**

An administrative offense is a violation of those County ordinances identified by the Kanabec County Board of Commissioners and is subject to the administrative penalties set forth on a Schedule of Administrative Offenses and Penalties to be adopted by the Kanabec County Board of Commissioners.

### **Subdivision 3. Notice.**

Any officer of the Kanabec County Sheriff's Office or any other person employed by the County and authorized in writing by the County Administrator, having authority to enforce County ordinances, shall, upon determining that there had been a violation, notify the violator, or if a motor vehicle is involved in the violation and the violator is not present at the time, attach the notice of the violation to the vehicle. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

### **Subdivision 4. Payment.**

Once such notice is given, the alleged violator may, within ten (10) days of the time of issuance of the notice, pay to the County the amount set forth on the schedule of penalties for the violation, or request in writing a hearing, as is provided for hereafter. The penalty

may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

**Subdivision 5. Failure to Pay.**

In the event a party charged with an administrative offense: fails to pay the penalty within ten (10) days of issuance of the notice, or following a hearing, fails to pay the penalty within ten (10) days of a decision by the hearing officer, or fails to attend a scheduled administrative hearing, a traffic or criminal charge may be brought against the alleged violator in accordance with applicable statutes or ordinances.

If the penalty is paid within the time stated above, or if an individual is found not to have committed the administrative offense by the hearing officer, no traffic or criminal charge will be brought by Kanabec County for the same violation.

**Subdivision 6. Disposition of Penalties.**

All penalties collected pursuant to this Subdivision shall be paid to Kanabec County and deposited in the County general fund.

**Subdivision 7. Effective Date.**

This Ordinance shall be in full force and effect on and after January 1, 2005.

# Kanabec County Ordinance #26

## KANABEC COUNTY TRAFFIC AND CRIMINAL CODE

The County Board of Kanabec County hereby ordains:

### **Subdivision 1. Purpose and Authority.**

The Kanabec County Board of Commissioners adopts this Ordinance to better protect the safety and welfare of its citizens. The Ordinance is adopted pursuant to Minnesota Statutes 169.022 and 375.51 to 375.55.

This Ordinance, in conjunction with the Kanabec County Administrative Offense Procedures Ordinance, will provide an informal and cost effective alternative to traditional court actions for the violation of certain criminal and traffic offenses. It will provide a more prompt resolution of minor criminal and traffic offenses, will conserve resources of the criminal justice system and will reserve the scarce resources of the court system for the more serious offenses.

### **Subdivision 2. Offenses.**

The following acts are violations of the Kanabec County Traffic and Criminal code:

- a. **Failure to Obey Traffic Control Signals.** The language of Minnesota Statute 169.06 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- b. **Speeding.** The language of Minnesota Statute 169.14 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- c. **Improper Lane Use.** The language of Minnesota Statute 169.18 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- d. **Improper Turns.** The language of Minnesota Statute 169.19 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- e. **Failure to Yield Right of Way.** The language of Minnesota Statute 169.20 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- g. **Stopping or Parking on a Roadway.** The language of Minnesota Statute 169.32 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

- h. **Other Parking Violations.** The language of Minnesota Statute 169.34 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- i. **Littering.** The language of Minnesota Statute 169.42 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- j. **Equipment Violations.** The language of Minnesota Statute 169.46 to Minnesota Statutes 169.75, inclusive and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- k. **Failure to Use Passenger Restraint for Children.** The language of Minnesota Statute 169.685 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- l. **Seat Belt Violations.** The language of Minnesota Statute 169.686 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- m. **Theft, less than \$20.00.** The language of Minnesota Statute 609.52 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance, except that the value of the stolen property may not exceed \$20.00.
- n. **Trespass.** The language of Minnesota Statute 609.605, Subd. 1, and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- o. **Disorderly Conduct.** The language of Minnesota Statute 609.72 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- p. **Public Nuisance.** The language of Minnesota Statute 609.74 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- q. **Unlawful Deposit of Garbage.** The language of Minnesota Statute 609.68 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- r. **Loud Exhaust.** No driver or operator of a motor vehicle shall allow discharge into the open air of the exhaust of any vehicle, except through a properly installed and operating muffler or other device which will effectively prevent loud or explosive noises there from.
- s. **Exhibition Driving.** No person shall operate a motor vehicle anywhere in the county in such a manner as to cause the spinning or skidding of tires, the squealing of tires, defacing the roadway with black marks or harming the road surface, fishtailing or skidding, accelerating excessively, drag racing, or in any other manner which creates a hazard to the driver or other persons or property, or interferes with traffic in the area.

- t. **Off-road Vehicle Violations.** The language of Minnesota Statute 84.804 Subd. 1-4 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
  
- u. **Snowmobile Violations.** The language of Minnesota Statute 84.87 Subd 1-2a and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

**Subdivision 3. Penalty.**

The maximum penalty for a violation of this Ordinance shall not exceed \$300.00

**Subdivision 4. Effective Date.**

This Ordinance shall be in full force and effect on and after January 1, 2005.

**ORDINANCE NO. 27**  
**KANABEC COUNTY LIQUOR ORDINANCE**

An Ordinance providing for hours when intoxicating liquor cannot be consumed on premises licensed to sell intoxicating liquor; for hours during which no person other than employees of a licensee can remain in any premises licensed to sell intoxicating liquor; for authority of law enforcement officials to enter premises to check for violations; for penalties for licensees who allow persons to remain on licensed premises during any time prohibited by this ordinance; providing for penalty for failure to allow a law enforcement official to enter a licensed premises to check for violations; and providing repeal of a prior ordinance and a prior resolution dealing with the same subject.

THE COUNTY BOARD OF KANABEC COUNTY ORDAINS:

- 1.0 DEFINITIONS.** The following words and phrases when used in the ordinance, unless the context clearly indicates otherwise, shall have the meanings herein ascribed to them.
- 1.01** “County” shall mean County of Kanabec.
- 1.02** “Final decision” shall mean any decision made by the County after a hearing under Section 9.0, or any determination made by the County Auditor that is not challenged at a hearing under Section 9.0 within 10 days of the mailing of the notice required by Section 9.01.
- 1.03** “Intoxicating Liquor” as defined in Minn. Stat. § 340A.101, Subd. 14.
- 1.04** “License” shall mean those licenses issued by the County of Kanabec to allow for the sale of intoxicating liquor by a licensee on the premises available to the licensee for the sale of intoxicating liquor.
- 1.05** “Licensee” shall mean any person who is issued a license by the County of Kanabec to allow for the sale of intoxicating liquor by the person on the premises licensed by the County of Kanabec.
- 1.06** “Person” shall mean an individual, partnership or corporation.
- 1.07** “Premises” is the premises described in the approved license application, subject to the provisions in Minn. Stat. §340A.410, subd 7. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, “licensed premises” means the entire golf course except for areas where motor vehicles are regularly parked or operated.
- 1.08** “Off-Sale” shall mean the sale of intoxicating liquor in original packages for consumption off the licensed premises only.
- 1.09** “On-Sale” shall mean the sale of intoxicating liquor for consumption on the licensed premises only.

**1.10** “Club” as defined in Minnesota Statute 340A.101, Subd. 7

## **2.0 APPLICATION PROCESS**

**2.01** An application for a license under this ordinance shall be made on the forms prescribed by the County and the State of Minnesota

**2.02** Before issuing any license under this ordinance, the Board of Commissioners shall consider, among other things, the following:

(a) the application;

(b) township approval;

(c) the written recommendations from the Kanabec County Sheriff and Kanabec County Attorney;

(d) the character and reputation of the person making the application;

(e) the nature of the business being or to be conducted;

(f) the physical set up of the premises;

(g) the propriety of the location of the premises;

(h) compliance with County ordinances and state law including, but not limited to: parking, zoning, sanitation, food service facilities, provisions for security against theft or misuse of products, subdivision regulations, building, fire, electrical and plumbing codes;

(i) any files of the County regarding the person making the application and/or premises.

**2.03** A licensee must require that all of its employees or agents who serve alcoholic beverages at the establishment successfully complete an annual program of responsible beverage server training. The County shall provide a list of dates, locations and times of County-approved responsible beverage server training programs. Certificates of attendance indicating proof of such training shall be maintained on the premises of the licensed establishment and a copy provided to the County at the time of application for renewal of license. Any renewal application not containing the certificates of training attendance shall be incomplete. Attendance at the training session does not alleviate applicants from civil and/or criminal penalties for a violation of this chapter.

## **3.0 FEES – NEW LICENSEES AND RENEWALS**

**3.01** The license fees for the licenses issued under this ordinance shall be those as set by resolution of the Kanabec County Board of Commissioners. Any resolution of the Board regarding license fees must comply with the provisions of Minn. Stat. §340A.408 (2005), and any amendment or recodification thereto.

**3.02** Licenses are annual and expire June 30<sup>th</sup> of each year. License fees are non-refundable.

**3.03** Renewal fees are due with the license renewal application. No license shall be

issued until license fees are paid in full.

- 3.04** Any licensee paying license fees by business or personal check that is returned due to insufficient funds or a closed account, will not be issued their license until payment by certified cashier's check or cash is received by the Kanabec County Auditor's office.
- 3.05** The Kanabec County Auditor's office reserves the right to require license renewal fees be paid by certified cashier's check or cash in subsequent years should a licensee violate section 3.04.
- 3.06** No license for the sale of intoxicating liquor will be issued to anyone for sales to be made on premises upon which delinquent property taxes exist.

#### **4.0 HOURS OF SALE OF ON-SALE INTOXICATING LIQUOR**

- 4.01** No sale of intoxicating liquor for consumption on the licensed premises may be made between 1:00 a.m. and 8:00 a.m.
- 4.02** No licensee licensed to sell intoxicating liquor shall permit any person to consume intoxicating liquor in the licensed premises later than 1/2 hour after this ordinance allows for the sale of intoxicating liquor.
- 4.03** No licensee shall permit any consumer or person whomever, except employees of the licensee, to remain on the licensed premises later than 1/2 hour after this ordinance allows for the sale of intoxicating liquor.

#### **5.0 TEMPORARY ON-SALE LICENSES FOR INTOXICATING LIQUOR**

- 5.01** The County may issue a temporary on-sale license for the sale of intoxicating liquor to a club or charitable, religious, or other non-profit organization in existence for at least three (3) years for the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee.
- 5.02** The temporary license under this section shall be issued for not more than three (3) consecutive days.
- 5.03** The premises for which a temporary license is issued may include public property owned by the County.
- 5.04** In the event the premises used are public property owned by the County, the licensee shall deposit with the Kanabec County Auditor, a \$1,500 refundable cash deposit to guarantee that the premises will be cleaned up after the expiration of the temporary license, and to guarantee against property damage to the property owned by the County.



**5.05** A temporary license shall not be issued for the use of public property owned by the County unless the licensee files with the Kanabec County Auditor a liability and property damage insurance policy protecting the licensee and County with the limits of at least \$100,000 per person; at least \$300,000 per occurrence and property damage of at least \$10,000.

## **6.0 GENERAL PROVISIONS**

**6.01** A licensee shall allow any law enforcement official to enter the premises at any time, for the purpose of investigating possible violations of this ordinance, other ordinances, and Minnesota Statutes.

**6.02** A licensee shall immediately stop sales when ordered to do so by the Sheriff of Kanabec County or their deputies.

**6.03** A licensee shall make every sale in full view of the public.

**6.04** Any license issued under this ordinance shall be posted in a conspicuous place on the premises for which it is issued.

**6.05** Any license issued under this ordinance shall not be transferred to any other person, organization or premises.

**6.06** The licensee shall comply with all laws, rules and regulations of the state and federal governments in operation on the premises, and shall ensure compliance therewith by each of their partners, employees, agents and customers.

## **7.0 PENALTIES**

**7.01** Any violation of Sections 4.02 or 4.03 is a misdemeanor, and additionally shall be cause for revocation, or suspension for up to 60 days of the license of the offender and/or up to a \$2000 fine.

**7.02** Any violation of Section 6.01 shall be cause for revocation, or suspension for up to 60 days of the license of the offender and/or up to a \$2000 fine.

**7.03** Any violation of Minnesota Chapter 340A shall be cause for revocation, or suspension for up to 60 days of the license of the offender and/or up to a \$2000 fine.

**7.04** Upon a determination by the County Auditor that a violation of this ordinance or Minnesota Chapter 340A has occurred, the following minimum penalties shall apply:

- a.** First violation: \$1000 fine
- b.** Second violation within 36 months of any prior violation: \$2000 fine

- c. Third violation within 36 months of any prior violations: \$2000 fine and a 14-day license suspension
- d. Upon a fourth violation occurring within 36 months of any prior violations, the licensee's license will be revoked.

**7.05** Payment of all fines assessed must be made within 90 days of the date that written notice of the violation was provided to the licensee. Unpaid fines shall constitute a basis to deny renewal of a liquor license when renewal is due.

**7.06** Violations are counted per licensee. In the event of a change in the licensee, upon the first violation occurring after the change, penalties will be assessed as a first offense.

## **8.0 NOTICE AND HEARING**

**8.01** If the County Auditor makes a determination to suspend or revoke a license granted under this ordinance, or to impose a fine on the licensee, the County Auditor must provide written notice of the specific civil penalty to the licensee.

**8.02** Written notice from the County Auditor must inform the licensee of the following:

- (a) The reason for the Auditor's determination;
- (b) The proposed consequences that the County intends to impose on the licensee;
- (c) The licensee's right to request a hearing prior to the determination becoming final; and
- (d) The consequences of the licensee's failure to request a hearing within 10 days of mailing of written notice.

**8.03** A hearing must be requested within 10 days of the date the notice was mailed via certified mail. If a licensee does not request a hearing within that time period, the determination of the County Auditor will be the final decision. Requests for a hearing must be submitted in writing to the County Coordinator.

**8.04** If the licensee requests a hearing, the hearing will be conducted in accordance with Minn. Stat. §340A.415 and Sections 14.57 to 14.69 of the Administrative Procedures Act ("APA"), and any amendment or recodification thereto.

**8.05** The County Board must select an independent hearing officer to conduct a hearing and make a report and recommendations pursuant to the provisions of the APA.

**8.06** The County must consider the hearing officer's recommendations and issue its decision on the suspension or revocation based on that recommendation pursuant to provisions of the APA. This decision will be the County's final decision.

**9.0 EFFECTIVE DATE**

This ordinance shall be effective July 1, 2015.

Passed by the Kanabec County Board of Commissioners this 24<sup>th</sup> day of June, 2015. Revised on the 17<sup>th</sup> day of August, 2021.

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Kanabec County Chairperson

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County Coordinator

## ORDINANCE #28

### AN ORDINANCE RELATING TO THE SURFACE USE OF ANN LAKE, KANABEC COUNTY, MINNESOTA

Be it ordained and enacted by the Kanabec County Board of Commissioners, State of Minnesota, that this is Kanabec County Ordinance No. 28, to be entitled: An Ordinance relating to the surface use of Ann Lake, Kanabec County, Minnesota.

**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 Ann Lake in Kanabec County, Minnesota, said bodies of water being located entirely within the boundaries of Kanabec County, to promote its fullest use and enjoyment by the public in general and the citizens of Kanabec 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 Kanabec County, Minnesota.

**Section 2.: DEFINITIONS:** Terms used in this ordinance related to boating are defined in M.S. § 86B.005.

**Section 3.:** There shall be and is hereby established a No Wake Zone on Ann Lake, Kanabec County, Minnesota, the area near and/or adjacent to the Department of Natural Resources Public Access at the southeast corner of Ann Lake, Kanabec County, Minnesota.

**Section 4.:** No one shall operate a watercraft in the area of the buoys near or within 400 feet of the Department of Natural Resources Public Access at the southeast corner of Ann Lake at a speed which causes a wake, or 5 knots, whichever is slower.

**Section 5.:** The Kanabec County Sheriff's Office shall place buoys in Ann Lake northwesterly from the Department of Natural Resources Public Access parallel to the eastern shoreline approximately 400 feet, and in Ann Lake west-northwesterly from the Department of Natural Resources Public Access approximately 400 feet.

**Section 6.: ENFORCEMENT:** The Primary responsibility for enforcement of this ordinance shall rest with the Kanabec County Sheriff's Department. This, however, shall not preclude enforcement by other licensed peace officers.

**Section 7.: 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 8.: PENALTIES**

**Subd. 1.** First offense in one year shall be guilty of a petty misdemeanor with a minor penalty of \$200.00.

**Subd. 2.** A subsequent violation with in a given year shall be guilty of a misdemeanor with a maximum penalty of a \$1,000 fine and 90 days in jail or both.

**Section 9.: EFFECTIVE DATE:** This Ordinance shall be in effect from and after May 1, 2005.

# Ordinance #29

## Emergency Management

### Section 1. POLICY AND PURPOSE

**Subdivision 1.** Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to insure that preparations of Kanabec County will be adequate to deal with such disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of Kanabec County, it is hereby found and declared to be necessary:

- (a) To establish a County emergency management organization responsible for Kanabec County planning and preparation for emergency government operations in time of disasters.
- (b) To provide for the exercise of necessary powers during emergencies and disasters.
- (c) To facilitate the rendering of mutual aid between Kanabec County and other political subdivisions of this State and of other states with respect to the carrying out of emergency preparedness functions.
- (d) To comply with provisions of Minnesota Statutes, Chapter 12, Section 12.25, which requires that each political subdivision of Minnesota shall establish a local organization for emergency management.

### Section 2. DEFINITIONS

**Subdivision 1.** "Emergency Management" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by fire, flood, tornado and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, fire-fighting services, police services, emergency medical services, engineering, warning services, communications, radiological and chemical evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out of the foregoing functions. Emergency management includes those activities sometimes referred to as "Civil Defense" functions.

**Subdivison 2.** "Disaster" means a situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

**Subdivison 3:** "Emergency" means an unforeseen combination of circumstances that calls for immediate action to prevent from developing or occurring.

**Subdivison 4.** "Emergency Management Forces" means the total personnel resources engaged in county-level emergency management functions in accordance with the provisions of this resolution or any rule or order there under. This includes personnel from Kanabec County departments, authorized volunteers, and private organizations and agencies.

**Subdivison 5.** "Emergency Management Organization" means the staff element responsible for coordinating county-level planning and preparation for disaster response. This organization provides County liaison and coordination with federal, state and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

### **Section 3. ESTABLISHMENT OF AN EMERGENCY MANAGEMENT ORGANIZATION**

**Subdivison 1.** There is hereby created with the Kanabec County government an emergency management organization which shall be under the supervision and control of the County Emergency Management Director, hereinafter called the "director". The director shall be appointed by the Kanabec County Board of Commissioners for an indefinite term and may be removed by them at any time. The director shall serve at a salary determined by the County Board and shall be paid his/her necessary expenses. The director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the County Board of County Commissioners.

### **Section 4. POWERS AND DUTIES OF THE DIRECTOR**

**Subdivison 1.** The director, with the consent of the County Board, shall represent the County on any regional or state conference for emergency management. The director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present such agreements to the County Board for its action. Such arrangements shall be consistent with the State Emergency Plan.

**Subdivision 2.** The director shall make studies and surveys of the manpower, industries, resources and facilities of the County as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The director of Emergency Management shall establish the economic stabilization systems and measures, service staffs, boards and sub-boards required, in accordance with state and federal plans and directions subject to approval of the Kanabec County Board of Commissioners.

**Subdivision 3.** The director shall prepare a comprehensive emergency plan for the emergency preparedness of the County including municipal and unincorporated areas and shall present such plan to the Kanabec County Board of Commissioners for its approval. When the board has approved the plan by resolution, it shall be the duty of all County agencies subject to the control of the County Board and all emergency preparedness forces of the County to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The director shall coordinate the emergency management activities of the County to the end that they shall be consistent and fully integrated with the emergency plan of the Federal Government and the State and correlated with emergency plans of other political subdivisions within the State.

**Subdivision 4.** In accordance with the State and County Emergency Plan, the director shall institute such training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the County Emergency Plan when a disaster occurs.

**Subdivision 5.** The director shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the county to the maximum extent practical. The officers and personnel of all such departments and agencies shall be, to the maximum extent practical, cooperate with and extend such services and facilities to the County Emergency Management organization. The head of each department or agency in cooperation with the director shall be responsible for the planning and programming of such emergency activities as will involve the utilization of the facilities of the department or agency.

**Subdivision 6.** The director shall, in cooperation with existing County departments and agencies affected, assist in the organizing, recruiting and training of such emergency management personnel, that may be required on a volunteer basis to carry out the emergency plans of the County. To the extent that such emergency personnel are recruited to augment a regular County department for emergencies, they shall be assigned to such departments or agencies and shall be under the administration and control of said department or agency.

**Subdivision 7.** Consistent with the state emergency services law, the director shall coordinate the activity of municipal emergency management organizations within the county and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services (Minnesota Statutes, Chapter 12, Sec. 12.25).



**Subdivision 8.** The director shall prepare and submit such reports on emergency preparedness activities as may be requested by the Kanabec County Board of Commissioners.

## **Section 5. LOCAL EMERGENCIES**

**Subdivision 1.** Only the Chair of a County Board of Commissioners or their legal successors may declare a local emergency. It shall not be continued for a period in excess of three days except by or with the consent of the governing board of the political subdivision. Any order, or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity.

**Subdivision 2.** A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter- jurisdictional disaster plans, and may authorize aid and assistance thereunder

**Subdivision 3.** No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

## **Section 6. EMERGENCY REGULATIONS**

**Subdivision 1.** Whenever necessary to meet a declared emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the Governor or the County Board, the Board may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulation, drills, or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

**Subdivision 2.** Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the Office of the County Coordinator, which copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the County Coordinator's Office shall be conspicuously posted in the lobby of the County Courthouse or at such other places in the affected area as the Board shall designate in the resolution. By like resolution, the Board may modify or rescind any such regulation.

**Subdivision 3.** The County Board may rescind any such regulation by resolution at any time. If not sooner rescinded every such regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Board shall be suspended during the period of time and to the extent such conflict exists. During a declared emergency, the County is, notwithstanding any statutory or charter provision to the contrary, empowered, through its governing body acting within or without the corporate limits of the County, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of such disaster. The County may exercise such powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, and the appropriation and expenditure of public funds including, but not limited to, publication of resolutions, publication of call for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for budgets.

## **Section 7. Emergency Management A Governmental Function**

All functions thereunder and all other activities relating to emergency management are hereby declared to be governmental functions.

## **Section 8. Participation in Politics**

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

## **Section 9. Effective Date**

This Ordinance shall be in full force and effect on and after July 13, 2005.

*Signed* \_\_\_\_\_  
Chairperson of the Kanabec County Board of Commissioners,  
Kanabec County, Minnesota

*Attest:* \_\_\_\_\_  
Kanabec County Coordinator

# **KANABEC COUNTY ORDINANCE NO. 30**

## **CLEANUP OF CLANDESTINE DRUG LAB SITES ORDINANCE**

### **Kanabec County**

#### **ARTICLE I. GENERAL PROVISIONS**

- SECTION 1.10 TITLE AND STATUTORY AUTHORITY
- SECTION 1.20 PURPOSE
- SECTION 1.30 JURISDICTION
- SECTION 1.40 INTERPRETATION AND APPLICATION
- SECTION 1.50 DISCLAIMER OF LIABILITY
- SECTION 1.60 FEES
- SECTION 1.70 DEFINITIONS, RULES, AND WORD USAGE

#### **ARTICLE II. ADMINISTRATION**

- SECTION 2.00 DECLARATION OF SITE AS A CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE
- SECTION 2.10 MEDICAL GUIDELINES FOR ASSESSING HEALTH STATUS OF EXPOSED PERSONS
- SECTION 2.20 LAW ENFORCEMENT NOTICE TO AFFECTED PUBLIC, PUBLIC HEALTH, AND CHILD PROTECTION AUTHORITIES
- SECTION 2.30 NOTICE OF CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE TO OWNER AND OCCUPANT
- SECTION 2.40 NOTICE FILED WITH PROPERTY RECORD AND/OR MOTOR VEHICLE RECORD
- SECTION 2.50 PROPERTY OWNER'S AND OCCUPANT'S RESPONSIBILITY TO ACT
- SECTION 2.60 PROPERTY OWNER'S RESPONSIBILITY FOR COSTS AND OPPORTUNITY FOR RECOVERY
- SECTION 2.70 SPECIAL ASSESSMENT TO RECOVER PUBLIC COSTS
- SECTION 2.80 AUTHORITY TO MODIFY OR REMOVE DECLARATION OF CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE
- SECTION 2.90 WASTE GENERATED FROM CLEANING UP A CLANDESTINE DRUG LAB

#### **ARTICLE III. EXCEPTIONS AND APPEALS**

- SECTION 3.10 EXCEPTIONS, APPEALS, AND PENALTIES
- SECTION 3.20 SEVERABILITY AND SAVINGS CLAUSE

#### **ARTICLE IV. EFFECTIVE DATE**

## KANABEC COUNTY ORDINANCE NO. 30

### CLEANUP OF CLANDESTINE DRUG LAB SITES ORDINANCE

#### ARTICLE I. GENERAL PROVISIONS

##### SECTION 1.10 Title and Statutory Authority

- 1.11 This ordinance shall be known and referenced as the “Cleanup of Clandestine Drug Lab Sites Ordinance.”
- 1.12 This ordinance is enacted pursuant to the powers specified in Minn. Stat. § 145A.05.

##### SECTION 1.20 Purpose

- 1.21 Professional reports, based on assessments, testing, and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate the land, surfaces, furnishings, and equipment in or near structures where Clandestine drug labs are located.
- 1.22 These conditions present health and safety risks to occupants and visitors of such structures and land through fire, explosion, and skin and respiratory exposure to chemicals.
- 1.23 This ordinance establishes responsibilities and guidelines for involved parties to assure that:
- a) people are not unnecessarily exposed to the dangers of these contaminated structures or land; and
  - b) proper steps are taken to remove contaminants and assure appropriate tests are completed to verify that affected structures and land are sufficiently cleaned for human contact.
- 1.24 This ordinance assists and guides appropriate public authorities, property owners, and occupants to prevent injury and illness to members of the public, particularly children.
- 1.25 This ordinance is intended to reduce exposure to chemicals used at clandestine drug lab operations in structures including dwellings, buildings, motor vehicles, trailers, appliances or the land where they are located.
- 1.26 This ordinance is intended to protect the health, safety and welfare of the citizens of Kanabec County.

##### SECTION 1.30 Jurisdiction

- 1.31 This ordinance shall apply to all incorporated and unincorporated municipalities and land (city or township) within the boundaries of Kanabec County.
- 1.32 Where a municipality has lawfully passed an ordinance to regulate and enforce the cleanup of Clandestine drug labs that is more restrictive, the County shall coordinate regulation and enforcement with that municipality.

##### SECTION 1.40 Interpretation and Application

- 1.41 The provisions of this ordinance shall be interpreted and applied as the minimum requirements necessary to protect public health, safety, and welfare.

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

SECTION 1.50 Disclaimer Of Liability

Liability on the part of, or a cause of action against, Kanabec County or any employee or agent thereof for any damages that may result from reliance on this ordinance shall be eliminated or limited as provided by Minn. Stat. §466.02.

SECTION 1.60 Fees

Fees for the administration of this ordinance may be established and amended periodically by resolution of the Kanabec County Board of Commissioners.

SECTION 1.70 Definitions, Rules, and Word Usage

For the purpose of this ordinance, the following terms or words shall be interpreted as follows:

- 1.71 Child means any person less than 18 years of age.
- 1.72 Chemical investigation site means a clandestine drug lab site that is under notice and order for cleanup and/or remediation as a public health nuisance, as authorized by Minnesota Statute Chapter 145A, and this ordinance.
- 1.73 Clandestine drug lab operation means the unlawful manufacture or attempt to manufacture a controlled substance within any area of a structure such as a dwelling, building, motor vehicle, trailer, boat, or other structure or appliance.
- 1.74 Clandestine drug lab site means any structure or conveyance or outdoor location affected by conditions or chemicals, typically associated with a clandestine drug lab operation.
- 1.75 Cleanup means proper removal and/or containment of substances hazardous to humans and/or the environment at a chemical investigation site. Cleanup is a part of remediation.
- 1.76 Controlled substance means a drug, substance or immediate precursor in Schedules I through V of Minnesota Statute § 152.02, as amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.
- 1.77 Owner means any person, firm, or corporation who owns, in whole or in part, the land and/or structures such as buildings, motor vehicle, trailer, boat or other appliance at a clandestine drug lab site.
- 1.78 Innocent Owner means an Owner who did not actively participate in or knowingly acquiesce to the creation of the clandestine drug lab site.
- 1.78a Public Health Nuisance shall have the meaning attributed to it in Minnesota Statutes § 145A.02, Subd. 17.
- 1.79 Public Health Authority means the Public Health Director or the Director's designees who are authorized to act as agents of the Kanabec County Board of Commissioners, in their role as the Community Health Board, pursuant to the Local Public Health Act, Minnesota Statutes § 145A.09 to 145A.13.

- 1.80 Remediation means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property when an assessment so indicates.
- 1.81 Structure means a dwelling, building, motor vehicle, trailer, boat, appliance or any other area or location, either fixed or temporary.

## ARTICLE II. ADMINISTRATION

SECTION 2.00 Declaration of Site as a Chemical Investigation Site Public Health Nuisance  
Clandestine drug lab sites, as defined herein, are declared by this ordinance to be “chemical investigation site/ public health nuisances”.

SECTION 2.10 Medical guidelines for assessing health status of exposed persons  
Medical guidelines for assessing the health status and determining medical care needs of persons – particularly children – that are found or known to be occupants or frequent visitors at a clandestine drug lab site, may be established and updated as necessary by the “Medical Consultant” who provides consultation services under contract to the The Public Health Authority Department.

SECTION 2.20 Law Enforcement notice to affected public, public health, and child protection authorities

- 2.21 Law enforcement authorities who identify a clandestine drug lab site, or clandestine drug lab operation shall notify the Kanabec County departments responsible for public health and child protection within one working day of identifying the lab site. The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives. The notice shall include sufficient information to inform the recipients of the following:
- a) property location by street address and other identifiable location;
  - b) property owner’s and occupant’s identities – especially the identities of any children and women of child-bearing age found or known to be associated with the site;
  - c) chemicals found and indications of chemical residues;
  - d) presumed duration of the lab;
  - e) equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and
  - f) conditions typically associated with a clandestine drug lab site or operation including weapons, illicit drugs, filth, fire, or electrical shock and other harmful conditions as determined by Minnesota law.
- 2.22 Upon identification of the clandestine drug lab site or operation, law enforcement agencies may treat, store, transport or dispose of all hazardous waste found at the site in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control, and Kanabec County rules and regulations including but not limited to Kanabec County Ordinance 111, Hazardous Waste Management Regulation.
- 2.23 When a law enforcement agency completes its work under 2.22 and is prepared to leave such sites, the agency shall affix a warning sign to the entrance of the affected part of the structure or land. The warning sign shall be those that have been prepared in advance for such situations through the collaboration of County Law Enforcement, Public Health Authority, and city officials if applicable. The warning sign shall be of a size and contain information sufficient to alert visitors or returning occupants that the site is a chemical investigation site public health nuisance, may be dangerous to enter, and must not be

entered except by authorization of the Public Health Authority and/or Law Enforcement agency identified on the sign.

**SECTION 2.30 Notice of Chemical Investigation Site/ Public Health Nuisance to Owner and Occupant**

- 2.31 After the Public Health Authority receives notice from a law enforcement agency that they've identified a clandestine drug lab site and posted the appropriate Chemical Investigation Site/ Public Health Nuisance warning sign, the Public Health Authority shall order that any property or portion of a property that has been found to be a clandestine lab site and contaminated by substances, chemicals, or items of any kind used in the process, or the by-products or degradates of manufacturing methamphetamine be prohibited from being occupied or used until it has been assessed and remediated as provided in the Minnesota Department of Health's clandestine drug labs general cleanup guidelines. The Public Health Authority shall serve the known lawful occupants and owners of the site pursuant to Minnesota Statute § 145A.04, Subd. 8(b) with notice of their responsibilities relative to the chemical investigation site/public health nuisance.
- 2.32 Upon the proper removal and remediation of any property used as a clandestine lab site, the contractor shall verify to the property owner and the Public Health Authority that the work was completed according to the Minnesota Department of Health's clandestine drug labs general cleanup guidelines and best practices. The contractor shall provide the verification to the property owner and the Public Health Authority within five days from the completion of the remediation. Following this, the Public Health Authority shall vacate the order issued pursuant to above section 2.31.
- 2.33 The Public Health Authority shall notify and order the Owner of record and known occupant or agent to have the public health nuisance removed or abated within 10 days as provided in Minnesota Statute § 145A.04 and this ordinance. The Public Health Authority notice and order shall include the following:
- a) A replica of the Chemical Investigation Site/Public Health Nuisance declaration that is posted at the site's entrance(s).
  - b) Information about the potentially hazardous condition of the chemical investigation site.
  - c) A summary of the Owner's and occupant's responsibilities under this ordinance.
  - d) Information on locating professional services necessary to remove and abate the chemical investigation site public health nuisance status as provided in this Ordinance and Minnesota Statute § 145A.04.
- 2.33 The Public Health Authority shall endeavor to provide information in writing about the Chemical Investigation Site Public Health Nuisance declaration and potential hazard(s) to the following additional concerned parties:
- a) Neighbors within close proximity that can be reasonably affected by the conditions found;
  - b) The local municipal clerk;
  - c) Local law enforcement;
  - d) Other state and local authorities, such as the Minnesota Pollution Control Agency and Minnesota Department of Health, that may have public and environmental protection responsibilities at the site.

**SECTION 2.40 Notice Filed with Property Record and/or Motor Vehicle Record**

- 2.41 The Public Health Authority, in collaboration with the Kanabec County Sheriff's Office, shall record with the Kanabec County Recorder an affidavit containing the name of the

owner, a legal description of the property where the clandestine lab was located, and a map drawn from available information showing the boundary of the property and the location of the contaminated area on the property that is prohibited from being occupied or used that discloses to any potential transferee:

- (1) that the property, or portion of the property, was the site of a clandestine lab;
- (2) the location, condition, and circumstances of the clandestine lab, to the full extent known or reasonably ascertainable; and
- (3) that the use of the property or some portion of it may be restricted as provided in the order issued pursuant to Section 2.31.

If Public Health vacates the order issued pursuant to Section 2.32, the Public Health Authority shall record an affidavit that contains the recording information of the above affidavit and states that the order is vacated.

- 2.42 When the affected property is personal property such as a motor vehicle, boat, or trailer, Public Health shall notify the appropriate State and local agency that maintains motor vehicle, boat, or trailer records, and the holders of liens or security interests against the vehicle or trailer.

#### SECTION 2.50 Owner's and Occupant's Responsibility to Act

- 2.51 Owner(s) and occupant(s) provided with a notice, which also includes the posted warning sign informing them about the chemical investigation site/ public health nuisance, shall promptly act to vacate occupants from those parts of a structure that are a chemical investigation site public health nuisance. This includes dwellings, buildings, motor vehicles, trailers, boat, appliances or any other affected area or location. In the case of an Innocent Owner, these actions shall be taken by the Public Health Authority.
- 2.52 Within ten business days of receiving the Public Health notice and order to cleanup the Chemical Investigation Site Public Health Nuisance, the Owner(s) and/or occupant(s) shall take the following actions:
- a) Notify the Public Health Authority that the affected parts of the dwellings, buildings, and/or motor vehicles have been and will remain vacated and secured until the Public Health Authority provides notice that the public health nuisance no longer exists.
  - b) Contract with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided assurance of appropriate equipment, procedures, and personnel, as determined by the Minnesota and/or Kanabec County Departments of Health) to accomplish the following:
    - 1) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
    - 2) Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;
    - 3) A complete clean-up of the site (including but not limited to the clean-up or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete clean-up of the demolished site;
    - 4) A complete clean-up, or disposal at an approved dumpsite, of all personal property in the site;
    - 5) A complete clean-up of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site, and



- 6) Remediation testing and follow-up testing to determine that all health risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein.
- c) Provide the Public Health Authority with the identity of the testing and cleaning firm the owner or occupant has contracted with for remediation of the structure(s) as described above.
- d) Provide the Public Health Authority with the contractor's plan and schedule for remediation that will abate the chemical investigation site public health nuisance declaration.
- e) The property owner or occupant may request an extension of time to consider options for arranging cleanup or removal of the affected parts of the structure. The owner or occupant must show good cause for any such extension. Any such extension shall be dependant on the owner's assurance that the affected parts of the structure will not be occupied pending appropriate cleanup or demolition.
- f) In the case of an Innocent Owner, the actions required by this section shall be performed by the Public Health Authority.

**SECTION 2.60 Owner's Responsibility for Costs and Opportunity for Recovery**

- 2.61 Consistent with Minnesota Statutes Chapter 145A, the Owner shall be responsible for:
  - a) private contractor's fees, cleanup, remediation, and testing of chemical investigation site public health nuisance conditions; and
  - b) Kanabec County's fees and costs of administering notices and enforcing, vacating, cleanup, remediation, and testing of affected parts of the property.
  - c) In the case of an Innocent Owner, Kanabec County shall be responsible for the costs and fees outlined in this section.
- 2.62 Nothing in this ordinance is intended to limit the property owners, agents, occupants, or the County's right to recover costs or damages, from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab and/or other lawful sources.
- 2.63 The County's administrative and enforcement services, referenced in subsection 2.61, include but are not limited to, the following:
  - a) Posting warning notices or signs at the site,
  - b) Notification of affected parties,
  - c) Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;
  - d) Expenses related to the recovery of costs, including the assessment process;
  - e) Laboratory fees;
  - f) Clean-up services;
  - g) Administrative fees; and
  - h) Other associated costs.

**SECTION 2.70 Special Assessment to Recover Public Costs**

- 2.71 The County is authorized under Minnesota Statute § 145A.04, Subd. 8(c) to proceed within ten business days of service of a notice for abatement or removal of the Public Health Nuisance to initiate the assessment and cleanup when a) the Owner is not located, or b) the Public Health Authority determines that the Owner refuses to, or cannot pay the costs, is an Innocent Owner, or cannot arrange timely assessment and cleanup that is acceptable to the designated Public Health Authority.

- 2.72 The Kanabec County Board of Commissioners shall be fully authorized to act, consistent with Minnesota Law, on behalf of the County to direct funds to assure prompt remediation of chemical investigation sites.
- 2.73 When the estimated cost of testing, cleanup, and remediation exceeds seventy-five percent of the County Assessor's market value of the structure and land, the Kanabec County Board of Commissioners is authorized to notify the Owner of the county's intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation.
- 2.74 The Owner shall be responsible for all costs, including those of the County, incurred to abate the public health nuisance, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean-up. The County's costs may also include, but shall not be limited to those set forth in Section 2.63. Fees and costs specified above that are not paid for in any other way may be collected through a special assessment on the property as allowed by Minnesota Statute § 145A.08, or by any other applicable Federal, State, and County Laws, Ordinances, and/or applicable County Board Resolution. In the case of an Innocent Owner the costs and fees outlined in this section shall be paid by Kanabec County.
- 2.75 Payment on the special assessment, shall be at the annual rate of at least One Thousand Dollars (\$1000) or more as needed to assure full payment to the County within ten (10) years. This amount shall be collected at the time real estate taxes are due. The amount due and/or payment rate may be adjusted by action of the Kanabec County Board of Commissioners.
- 2.76 The County may also seek recovery of costs through other methods allowed by Federal or State law.

SECTION 2.80 Authority to Modify or Remove Declaration of Chemical Investigation Site Public Health Nuisance

- 2.81 The designated Public Health Authority may modify conditions of the declaration and order removal of the declaration of Chemical Investigation Site Public Health Nuisance.
- 2.82 Such modification or removal shall occur only after the Public Health Authority has determined that levels of contamination are sufficiently reduced through remediation to warrant modification or removal of the declaration. The Public Health Authority may rely on information from competent sources, including those supplied by the property owner and others such as state and local health, safety, law enforcement and pollution control authorities to reach such decisions.
- 2.83 When the declaration is modified or removed the Public Health Authority shall forward that information to the County Recorder for addition to the property record if notice of the nuisance declaration was previously filed with the Recorder as described above. Similarly, notice shall be provided to the motor vehicle or other license records agencies and lien holders if a notice had previously been provided to them.

SECTION 2.90 Waste Generated From Cleaning Up A Clandestine Drug Lab.

Waste generated from chemical investigation site public health nuisances shall be treated, stored, transported, and disposed in accordance with applicable Minnesota Department of Health, Minnesota Pollution Control Agency, and Kanabec County rules and regulations for solid waste, and for hazardous household and other hazardous wastes.

**ARTICLE III. EXCEPTIONS, APPEALS, AND PENALTIES**

SECTION 3.10 Exceptions, Appeals, and Penalties

Administration of this ordinance, including guidance for, challenges to, and penalties shall be according to the authorities provided in Minnesota Statute Chapter 145A, other applicable Minnesota law, and the Kanabec County Solid Waste Management Ordinance.

SECTION 3.20 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 of, or affect the validity or enforceability of any other section or provision of this ordinance.

**ARTICLE IV. EFFECTIVE DATE**

This ordinance shall be in full force and effect on January 1, 2006.

Dated this 16th day of November, 2005.

KANABEC COUNTY BOARD OF COMMISSIONERS

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ATTEST:

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**KANABEC COUNTY ORDINANCE NO. 31  
FALSE ALARM ORDINANCE**

**Subdivision 1. Purpose.** Responding to false alarms endangers the safety of the public and the public safety personnel. This Ordinance is enacted to provide for the regulation of alarms used to summon public safety personnel to reduce the risk and expense associated with false alarms by decreasing their frequency and by establishing an alarm user registration system and fees to defray the costs of response to these alarms.

**Subdivision 2. General Provisions**

**2.1 Severability.**

If any portion of this ordinance should be declared unenforceable, it shall be severed from this ordinance, the remainder of which shall remain in full force and effect.

**2.2 Definitions.**

- (a) **Alarm System.** “Alarm System” means any equipment or device which signals either audibly or in any other manner so as to be seen, heard, or otherwise detected outside the protected area serviced by the alarm system that an emergency, including robbery, burglary, medical emergency, act of vandalism or unauthorized entry, has occurred, and which is intended to elicit a response from public safety personnel. An automobile alarm device is not considered to be an alarm system under this definition.
- (b) **Alarm User.** “Alarm User” means a person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure, or facility where an alarm system is maintained, regardless of whether it owns or leases the alarm system. For a person, firm, partnership, association, corporation, company or organization of any kind which owns separate properties with an alarm system, each separate location address constitutes a separate alarm user.
- (c) **False Alarm.** “False Alarm” means an alarm signal eliciting a response by public safety personnel when a situation requiring a response by public safety personnel does not, in fact, exist and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation, or error of the alarm user or his or her employees or agents. A false alarm does not include an alarm signal caused by severe climatic conditions, such as tornadoes, thunderstorms, violent conditions of nature or any other conditions which are beyond the control of the alarm user. A false alarm does not include alarm signals for which the alarm owner contacts dispatch or the Kanabec County Sheriff's Office prior to a response by public safety personnel and provides notice that there is no emergency.

- (d) **Public Safety Personnel.** “Public Safety Personnel” includes, but is not limited to, all personnel employed by any law enforcement agency, firefighters, emergency medical technicians, paramedics and ambulance crew.
- (e) **Response by Public Safety Personnel.** “Response by Public Safety Personnel” means the arrival of public safety personnel at the location of a false alarm in response to that alarm.

### **Subdivision 3. User Registration Fees; Exemptions.**

- 3.1 Upon the second false alarm in a calendar year, an alarm user registration fee of \$30.00 shall be imposed upon an alarm user.
  - (a) The County shall notify the affected alarm user in writing of the imposition of the alarm registration fee under this subdivision.
  - (b) Registration will be considered a lifetime registration if there are no false alarms in the future.
  - (c) Registration fees that are not paid in full within thirty (30) days of written notice under this subdivision shall be considered delinquent. The County is hereby empowered to collect all delinquent alarm user registration fees by all means allowed by law for collection of a debt.
- 3.2 Newly installed alarm systems are hereby granted a 30-day probationary period, commencing on the date of first operational use thereof, during which period false alarms will not be counted for the purpose of computing the amount of any alarm user fee imposed by this Ordinance. The owner of a newly installed alarm system must provide written notice to the Kanabec County Sheriff's Office that a new system has been installed within three (3) days of first operational use in order to qualify for this probationary period. This section also applies to owners of alarm systems that have been newly serviced or repaired. The owner of a newly serviced or repaired system must provide written notice along with verification to the Kanabec County Sheriff's Office that the system has been serviced or repaired within three (3) days of such service or repair.

### **Subdivision 4. Penalty/Fees.**

- 4.1 Upon the third false alarm, and for each subsequent false alarm, in a calendar year, an alarm user shall be subject to a penalty in the form of a fee.
- 4.2 The fee shall be established by the County Board and added to the Kanabec County Fee Schedule.
- 4.3 Fines are due within thirty (30) days of the date of the invoice.

**Subdivision 5. Notice.**

**5.1** Upon notice of the first false alarm report for a particular alarm system, the Kanabec County Sheriff's Office shall notify the alarm user by mail that a false alarm has been reported. The first notice shall include a copy of this Ordinance. Upon notice of the second or subsequent false alarm report for the alarm system, the Kanabec County Sheriff's Office shall mail a copy of the notice to the alarm user.

(a) All notices shall be sent by first class mail to the address the alarm system is located or to the owner of the premises as recorded on the property tax rolls maintained by the County Auditor.

(b) All notices shall contain a copy of the report generated by the Sheriff's Office detailing the date, time, location and facts supporting the conclusion that the alarm was false.

**Subdivision 6. Appeals.**

**6.1** An alarm user who has been charged an alarm user fee or fine may appeal the imposition of that fee in writing to the Kanabec County Coordinator within ten (10) days of receipt of written notice under this subdivision.

**6.2** The Kanabec County Coordinator shall provide the Board with the written appeal at the next regularly scheduled meeting of the Kanabec County Board of Commissioners.

**6.3** The Kanabec County Board of Commissioners shall review the written appeal and issue a written decision to affirm, modify, or rescind the alarm user fee within ten (10) days of receiving the appeal. The decision of the County Board shall be final.

**6.4** All appeal notices shall include a detailed description of why the alarm should not be considered a false alarm.

**6.5** The burden of proof to establish a false alarm is preponderance of the evidence.

**Subdivision 7. Effective Date.** This Ordinance shall become effective on the 1st day of October, 2010.

Passed by the Kanabec County Board of Commissioners this 25th day of August, 2010.

Signed \_\_\_\_\_  
Chairperson of the Kanabec County Board of Commissioners,  
Kanabec County, Minnesota

Attest: \_\_\_\_\_  
Kanabec County Coordinator

## KANABEC COUNTY ORDINANCE NO. 33

### Social Host Ordinance

#### Kanabec County

This ordinance prohibits, and establishes penalties for, any person hosting an event or gathering where alcohol is present and is being possessed or consumed by person under twenty-one (21) years of age.

The Kanabec County Board of Commissioners Ordains:

**Subd. 1. Purpose and Findings.** The County intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol, regardless of whether the person hosting the event or gathering supplied the alcohol. The Kanabec County Board finds that:

- a. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- b. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- c. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- d. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents or guardians. However, there are times when a parent or guardian or other adult is present and condones the activity and, in some circumstances, provides the alcohol.
- e. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- 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 Minn.Stat. §145A.05, Subd. 1.

**Subd. 3. Definitions.** For purposes of this ordinance, the following terms have the following meanings:

- a. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- b. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- c. “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- d. “Host” means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
- e. “Parent” means any person having legal custody of a juvenile as:
  - (1) a natural, adoptive parent, or step-parent;
  - (2) a legal guardian; or
  - (3) a person to whom legal custody has been given by order of the court.
- f. “Person” means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
- g. “Residence” or “premises” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- h. “Underage person” is any individual under twenty-one (21) years of age.

**Subd. 4. Prohibited Acts.** It is unlawful for any person(s) to host, allow or have control over an event or gathering, or intentionally aid, hire, advise, counsel, or conspire with or otherwise procure another to host, allow or have control over an event or gathering, at any residence, premises, or on any other private or public property, where alcohol or alcoholic beverages are present, when the person knows, has reason to know, or acts in reckless disregard of knowledge that any underage person will or does consume any alcohol or alcoholic beverage, or possess any alcohol or alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

**Subd. 5. Exceptions.** This ordinance does not apply to:



- a. Conduct solely between an underage person and his or her parent while present in the parent's household.
- b. Legally protected religious observances.

**Subd. 6. Enforcement.** This ordinance can be enforced by any licensed peace officer in the county.

**Subd. 7. Severability.** If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance, which remaining portions shall continue in full force and effect.

**Subd. 8. Penalty.** Any person who violates Subdivision 4 is guilty of a misdemeanor. Any person found guilty of a misdemeanor under this ordinance shall be punished as provided by the Laws of the State of Minnesota for misdemeanor violations.

**Subd. 9. Effective Date.** This ordinance shall take effect May 26, 2010.

## KANABEC COUNTY ORDINANCE NO. 34

# Dog Control Ordinance

### Kanabec County

This ordinance provides for regulation of dogs at large, and establishes penalties for violations, to provide for the protection of dogs and also for the protection of the health, safety and general welfare of the citizens of Kanabec County.

#### **Subdivision 1. Purpose and Findings.**

This Dog Control Ordinance (Ordinance) is enacted to: (1) regulate and restrict dogs; (2) protect the public from unvaccinated diseased, stray, roaming and nuisance dogs; (3) make unlawful the acts of dog owners or keepers that allow their dog(s) to interfere with the enjoyment of property and peace and safety in Kanabec County.

#### **Subdivision 2. Authority.**

This Ordinance is enacted pursuant to authority granted by the State of Minnesota under Minnesota Statutes Chapter 347. Minnesota Statute Chapter 347 is hereby incorporated by reference and shall be made part of this ordinance.

#### **Subdivision 3. Jurisdiction.**

This Ordinance shall be applicable in all areas of the County lying outside the incorporated limits or municipalities.

#### **Subdivision 4. Definitions.**

For purposes of this Ordinance, the following terms have the following meanings. The definitions contained in this section shall not replace or supersede the definitions or provisions of any other Kanabec County Ordinances.

4.1 “Animal Control Officer” means Kanabec County Sheriff, Deputy Sheriffs, and other persons appointed by the Kanabec County Sheriff to enforce sections of this Ordinance and applicable state laws.

4.2 “Animal Control Facility” means a facility designated for the placement of dogs in accordance with or to enforce the provisions of this Ordinance.

4.3 “At Large” means a dog that is: (1) not physically controlled by a human being by means of a leash or lead held by the human being; or (2) unaccompanied by a person and the dog does not immediately respond to sound, mechanical, electrical or other command of its accompanied person, subject to the following exceptions:

- 4.3.1 A dog that is specially trained for and actually working livestock;
- 4.3.2 A dog that is specially trained for and actually working locating and retrieving wild game in season for a licensed hunter;
- 4.3.3 A dog that is specially trained for and actually working assisting law enforcement officers;
- 4.3.4 A dog within the confines of the real property of its owner or keeper or other real property that the owner or keeper has permission to use;
- 4.3.5 A dog within a motor vehicle; or
- 4.3.6 A dog being trained for any of these specifically enumerated pursuits.
- 4.4 “Bodily injury” means any physical injury to a human being caused by dog, including but not limited to: injuries wherein the skin is broken: interior or exterior bleeding or bruising occurs; or where bone, tissue, or muscle damage occurs.
- 4.5 “County: means Kanabec County, State of Minnesota.
- 4.6 “Citation” means a notice or complaint by the Animal Control Officer to the owner or keeper of one or more violations of this ordinance.
- 4.7 “Dog” means a canine of either sex, whether domesticated or wild.
- 4.8 “Exposed to Rabies” means an animal or human bitten by or exposed to any animal known or suspected to have been infected with rabies.
- 4.9 “Harboring a dog” means feeding or sheltering, or both, a dog for seven days or more.
- 4.10 “Impounded dog” means any dog which is received into custody by an Animal Control Officer or persons appointed by the Kanabec County Sheriff.
- 4.11 “Leash or lead” means a thong, cord, rope, chain, or similar tether which holds a dog in restraint and which is not more than six (6) feet in length.
- 4.12 “Owner or Keeper” means any person owning, keeping, harboring, or acting as custodian of, a dog.
- 4.13 “Shelter” means any facility designated by the County for purposes of sheltering any dog lawfully impounded by this Ordinance.

## **Subdivision 5. Rabies Control.**

5.1 Whoever owns, keeps, or harbors a dog within the County for a period of more than thirty (30) days shall have such dog properly vaccinated or immunized against rabies and revaccinated as required consistent with the recommendation of the product used; however, dogs need not be vaccinated before the age of five (5) months. Kanabec County may investigate to determine if impounded dogs have had timely rabies vaccination.

5.2 An owner or custodian of a dog shall, by a tag securely fastened to a collar, by a microchip, or by individual tattoo, provide information that is attached to the dog as to the identity of the dog's owner and the year of the dog's most recent rabies vaccination.

5.3 An owner or custodian of a dog which is not identified shall produce current vaccination records, at the request of the Animal Control Officer, including the year of vaccination and serial number of the product used, or is subject to criminal penalties as set forth in Section 9

5.4 An owner or keeper of a dog which does not have an appropriate rabies vaccination and which bites or otherwise potentially exposes a person to rabies virus is subject to criminal penalties as set forth in Section 9.

## **Subdivision 6. Control of Dogs.**

For the purposes of this section, unless otherwise limited, the owner is ultimately responsible for the behavior of his or her dog regardless of whether the owner or keeper or another member of the owner's household or a household visitor permitted the dog to engage in the behavior that is subject to the violation.

6.1 Dogs at Large Prohibited.

6.1.1 All dogs shall be kept under restraint. It shall be unlawful for the owner or keeper of any dog to permit such dog to be at large in the unincorporated area of Kanabec County.

6.1.2 A dog found at large shall be subject to possible impoundment. The owner of an impounded dog shall be responsible for all fees as set forth in section 7.6, whether the dog is reclaimed or not.

6.1.3 A leash or lead longer than six (6) feet in length or a retractable lead of variable length may be used when exercising or training a dog provided that the use of the leash does not allow the dog to interfere with public access to, or use of, public areas.

6.2 Public Nuisance Prohibited. It shall be unlawful for any owner or keeper of a dog to fail to exercise proper control of the owner or keeper's dog so as to have it become a public nuisance. For the purpose of this section a public nuisance includes the following:

6.2.1 A dog that:

- a) is a safety or health hazard;
- b) damages or destroys the property of another, including garden and flower beds and trees;
- c) creates offensive odors that materially interfere with or disrupt another person in the conduct of lawful activities at such person's home;
- d) urinates or defecates upon private property not owned or exclusively occupied by the owner or keeper; or
- e) defecates upon public property if the feces deposited by the dog are not immediately removed by the dog's owner or keeper.

6.2.2 A dog at large that:

- a) jumps on, harasses, or attempts to herd a person; or
- b) runs after joggers, pedestrians, other dogs walked on a leash by an owner, bicyclists or any vehicle driven upon the roads or any public ground except the private property of the dog's owner or keeper.

6.2.3 A dog that chases or attacks wildlife, including birds, or livestock on property not owned or exclusively occupied by the owner or keeper, whether or not the dog injures or destroys the wildlife or livestock.

## **Section 7. Impoundment and Reclamation.**

7.1 Right of Entry Granted. Animal Control Officers are hereby authorized to enter upon any premises, as authorized by Federal and State law, in Kanabec County for the purpose of impounding dogs which they are authorized herewith to impound, or for other purpose authorized by this ordinance.

7.2 Authorization for Capture and Impoundment. Animal Control Officers are hereby granted discretionary authority to capture and impound dogs included in the categories listed below. Such Officers may use a tranquilizer dart if necessary in order to capture a dog which appears to be vicious or where the officer is not able to capture the dog in any other humane manner. The officer may destroy such dog if necessary to avoid a physical threat to human being.

7.2.1 Dogs at large;

7.2.2 Dogs that constitute a safety or health hazard; and

7.2.3 Dogs left without care as a result of death, injury, arrest, detention, or other incapacitation of the owner or keeper.

7.3 Impound Notice. When any dog has been seized and impounded, the Animal Control Officer shall give notice to the dog's owner or keeper, if such owner or keeper is known, that such dog has been impounded and that it will be placed for adoption or destroyed if not redeemed in ten (10) days. If the owner or keeper is not known to the Animal Control Officer, the officer shall post a notice in the front lobby of the Kanabec County Courthouse, the Kanabec County Sheriff's Office and on the appropriate websites. The notice shall describe the dog and the place where seized and shall advise the unknown dog owner or keeper that such dog will be rehomed or destroyed if not reclaimed in ten (10) days.

7.4 Adoption or Disposal of Unclaimed Dogs. Any dog not reclaimed by its owner or keeper within ten (10) days after impoundment shall become the property of the County or its designated animal control facility and shall be placed for adoption in a suitable home or humanely put to death by euthanasia.

7.5 Minimum Time for Impoundment for Unclaimed Dogs. Unclaimed dogs shall be kept at the Animal control Facility or other appropriate location for not less than ten (10) days after impoundment unless euthanasia prior to that time is deemed necessary or appropriate by a veterinarian advising the Animal Control Officer.

7.6 Any dog euthanized per 7.5 will have a sample submitted for rabies evaluation at the expense of the owner.

7.7 Reclaiming Fees. Any owner or keeper reclaiming an impounded dog shall pay all veterinary cost plus the required penalty or fine and an impound fee, plus a daily boarding fee as established by the County Commissioners.

## **Section 8. Enforcement.**

8.1 The Kanabec County Sheriff's Office and its appointed Animal Control Officers shall, at the discretion of the Kanabec County Sheriff's office, enforce all of the provisions of this ordinance as set forth herein.

8.2 The Animal Control Officer has the authority to determine whether a dog has engaged in the behaviors of a dog at large. This determination may be based upon an investigation that includes observation of and statements of witnesses about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the officer. These observations and statements of witnesses can be provided by Animal Control Officers or by other witnesses who personally observed the behavior. The Animal Control Officer or witnesses shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior if necessary.

8.3 No person shall knowingly: 1) interfere with, impede, or obstruct any Animal Control Officer who is attempting to discharge or who is in the course of discharging an official duty, or 2) fail to obey the lawful order of an Animal Control Officer.

**Section 9. Penalty.**

Any person who violates any provision of this ordinance, whether by acting in a manner declared to be unlawful or by failing to act as required, shall be guilty of a misdemeanor. Any person found guilty of a misdemeanor under this ordinance shall be punished as provided by the Laws of the State of Minnesota for misdemeanor violations.

**Section 10. Liability for Accident or Subsequent Disease.**

The Kanabec County Board of County Commissioners, Kanabec County Sheriff, Animal Control Officers, and agents or employees of Kanabec County or any other person authorized to enforce the provisions of this ordinance concerning dog control shall not be held responsible for any damage, accident, or subsequent disease that may occur in connection with the administration of this ordinance.

**Section 11. Safety Clause.**

The Kanabec County Board of Commissioners hereby finds, determines, and declares that this ordinance is necessary for the immediate preservation of the public welfare, health and safety.

**Section 12. Severability.**

If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance, which remaining portions shall continue in full force and effect.

**Section 13. Effective Date.**

This ordinance shall take effect July 1, 2018.

Passed by the Kanabec County Board of Commissioners this 28<sup>th</sup> day of March, 2018.

Signed: \_\_\_\_\_  
Chairperson of the Kanabec County Board of Commissioners,  
Kanabec County, Minnesota

Attest: \_\_\_\_\_  
Kanabec County Coordinator

**COUNTY OF KANABEC  
ORDINANCE NO. 35**

**AN INTERIM ORDINANCE PLACING A MORATORIUM ON THE SALE OF  
HEMP DERIVED TETRAHYDROCANNABINOL (THC) FOOD AND  
BEVERAGES WITHIN THE COUNTY OF KANABEC**

The County of Kanabec HEREBY ORDAINS:

**SECTION 1: Purpose and Intent**

- A. The County of Kanabec (the “County”) recognizes significant public interest in new State laws that took effect July 1, 2022, that now make it legal to sell certain edibles and beverages infused with tetrahydrocannabinol (THC), the cannabis ingredient extracted from hemp.
- B. The County held a public hearing on the topic of using an Interim Ordinance to put in place a moratorium related to hemp derived cannabis.
- C. The purpose of the moratorium is to allow the County of Kanabec/Kanabec County Community Health time to complete a study to determine whether to effectuate changes to the Zoning Ordinance and/or County Code that would regulate the sales, testing, manufacturing, and distribution of cannabis and cannabidiol (CBD) for medical, recreational, and other purposes, in addition to the sale of hemp derived tetrahydrocannabinol (THC) food and beverages, and regulate the placement and circumstances under which land and structures may be used for such purposes.
- D. Minnesota Statutes Section 394.34 allows the County to adopt a temporary Interim Ordinance for a period of up to twelve (12) months from the date it is effective to allow for such study and adoption in order to protect public health, safety and general welfare of its citizens.

**SECTION 2: Prohibition**

- A. Pursuant to Minnesota Statutes 394.34, the County hereby adopts and approves this Interim Ordinance establishing a moratorium temporarily prohibiting within the County of Kanabec the sales of hemp derived tetrahydrocannabinol (THC) food and beverages.
- B. During the effective period of this Interim Ordinance, the County of Kanabec will prohibit the sales of hemp derived tetrahydrocannabinol (THC) food and beverages pending completion of the above referenced study and the determination of whether the County should adopt appropriate official controls.
- C. In addition, no application related to the license, use, development, variances, conditional use permits, or any other planning or licensing application that involved the sales, testing, manufacturing, or distribution of cannabis, medical or recreational, in any way, and



cannabidiol products shall be accepted or considered during the effective period of this Interim Ordinance.

- D. Pre-existing businesses, established and operating before July 1<sup>st</sup> 2022, that prior to July 1, 2022, undertook the sales of hemp derived tetrahydrocannabinol (THC) food and beverages, will be allowed to continue to operate as they were before the effective date of this Interim Ordinance, but may not expand the scope of those operations in any way during the period of time in which this Interim Ordinance is in effect.
- E. Kanabec County may enforce any provision of this Interim Ordinance by any and all means authorized by Kanabec County Ordinances and State Statutes.
- F. Every section, provision, or part of this Interim Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

**SECTION 3: Effective Date and Duration**

- A. This interim ordinance shall be in effect for a period of twelve (12) months from the date of adoption, unless earlier terminated by the Kanabec County Board of Commissioners.
- B. This interim ordinance is hereby adopted by the County Board of Kanabec County this 6th day of September, 2022 and shall take effect upon adoption.

**COUNTY OF KANABEC**

By: \_\_\_\_\_  
Board Chairperson

ATTEST

By: \_\_\_\_\_  
County Coordinator

This interim ordinance was published in the Kanabec County Times on September 15, 2022.