

**LINCOLN COUNTY
COMPREHENSIVE DEVELOPMENT
ORDINANCE NO. 40
(2009)**

Amending Ordinance No. 39
(December 2, 2004)

Amending Ordinance No. 38
(September 7, 2004)

Amending Ordinance No. 37
(February 5, 2002)

Amending Ordinance No. 36
(August 7, 2001)

Amending Original Ordinance No. 35
(December 19, 2000)

Prepared by:

Lincoln County Environmental Office

Approved by:

Lincoln County Board of Commissioners

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Comprehensive Development Ordinance
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**Lincoln County
Lake Shore Zoning Map**

This map shall constitute a right and correct description of the area's in Lincoln County affected by the adoption of the Lincoln County Comprehensive Development Ordinance No. 40, Section IV Lake Shore Zoning and;

This map shall apply to all shore lands of the public waters identified and classified in Section IV Lake Shore Land Zoning Subd. 402.0 of the Lincoln County Comprehensive Development Ordinance No. 40. with exception of those areas within the boundaries of an incorporated city and;

WHEREUPON the above mentioned Shore Land Zoning Map was adopted at a regular meeting of the Lincoln County Board of Commissioners this 4th day of November 2008, at Ivanhoe, Minnesota.

Joan Jagt, Chairman

Date

STATE OF MINNESOTA

COUNTY OF LINCOLN

I, Kathy Schreurs do hereby certify that I am the custodian of the minutes of all proceedings had and held by the Board of Commissioners of said Lincoln County, that I have compared the above Shore land Zoning map with the original passed and adopted by the Board of Commissioners of said Lincoln County at a regular meeting thereof held on the 4th day of November, 2008, at Ivanhoe, Minnesota, that the above constitutes a true and correct copy thereof, that the same has not been amended or rescinded and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto placed my hand and signature this 15th day of April 2003, and have hereunto affixed the seal of Lincoln County.

Kathy Schreurs, County Auditor

(seal)

SECTION I

GENERAL PROVISIONS

SECTION I. GENERAL PROVISIONS

This Ordinance is the Comprehensive Development Ordinance for Lincoln County, Minnesota. It includes components of zoning, subdivision regulations, and sanitary and environmental regulations.

Subdivision 100.0 Purpose and Intent

This Ordinance is enacted to promote the health, safety, and general welfare throughout Lincoln County by reducing congestion in the public rights-of-way, securing safety from fire, panic and other dangers, providing adequate light and air; facilitating the adequate provision of water supplies, sewage treatment, and other utility services; solid waste management; protecting and preserving the air quality, land and water; conserving the value of properties and encouraging the most appropriate use of the land; maintain eligibility for and participation in the National Flood Insurance Program; and pursuant to Minnesota Statutes § Chapters and Sections 394.21, 103F, 103G, 115, 116, 115A, 375, 400, 473.811, 561.01, and 609.74 and other rules, regulations and mandates.

Subdivision 200.0 Title

This Ordinance shall be known as the *Lincoln County Comprehensive Development Ordinance* or when referred here shall be “this Ordinance.”

Subdivision 300.0 General Provisions

The following General Provisions of the *Lincoln County Comprehensive Development Ordinance* apply uniformly to all other provisions of this Ordinance except as specifically noted otherwise.

Subdivision 400.0 Authorizations

The provisions in this Ordinance are authorized by Minnesota Statutes, Federal Law, and various state and federal regulations, rules and mandates relating to the authority of the County to conduct planning and zoning activities, and related public purposes.

Subdivision 500.0 Compliance Issues

Where the provisions of this Ordinance impose greater restriction than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

Subdivision 600.0 Interpretation

The provisions of this Ordinance shall be held to be minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

Subdivision 700.0 Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate, or impair existing laws, ordinances, easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

Subdivision 800.0 Roles and Authority

The roles and authority of Lincoln County personnel, commissions, boards and committees shall be as specified herein and as required by law.

Subdivision 900.0 Applicability Issues

- 901.0 Applicability Issues of Private Property:** This Ordinance shall apply to all Lincoln County private property except located in an incorporated city.
- 902.0 Applicability to Public Property:** This Ordinance shall apply to all Lincoln County public property except in an incorporated city, and public property specifically exempted from regulation by state or federal law.
- 903.0 Applicability to Streets, Roads and Rights-of-Way:** This Ordinance shall apply to all streets, roads and rights-of-way within Lincoln County except those streets, roads and rights-of-way in an incorporated city. Public streets, roads and rights-of-way may also be subject to regulations governing their design, construction and use which supersede or if more restrictive supplement this Ordinance.
- 904.0 Applicability to Submerged Lands:** This Ordinance shall apply to all submerged lands within Lincoln County except in an incorporated city, and submerged lands specifically exempted from local regulation by state or federal law.

905.0 Exceptions.

- A. Section X, Solid Waste Management applies to all areas of Lincoln County as identified by Minn. Stat. § 115A.
- B. Section XIV as it relates to sewage treatment systems, applies in municipalities if there is a written agreement between the County and the municipality.

Subdivision 1000.0 Provisions are Cumulative

The provisions of this Ordinance are cumulative and additional limitations upon all other laws and ordinances passed or which may be passed, covering any subject matter in this Ordinance.

Subdivision 1100.0 Interpretation of Procedures

Procedures shall follow common practice to the extent possible, or be specified in this Ordinance or other laws, or they shall be administratively developed in writing as needed.

Subdivision 1200.0 Abbreviations

The use of abbreviations and acronyms shall be avoided except for generally recognized abbreviations and acronyms and those included as part of a definition.

Subdivision 1300.0 Permits

1301.0 Applicability of Prior Permits: Permits issued prior to this Ordinance may be implemented in accordance with the regulations in effect prior to the effective date of this Ordinance.

1302.0 Applicability of Pending Permits: Permits applied for but not issued prior to this Ordinance shall comply with the provisions of this Ordinance if they are issued.

Subdivision 1400.0 Relation to Private Agreements

Lincoln County shall not enforce private agreements, and no private agreement shall be enforced if it is in conflict with this Ordinance.

Subdivision 1500.0 Application of Regulations During Local Emergency

The Lincoln County Board of Commissioners may, after declaration of a public emergency, suspend the provisions of this Ordinance during the emergency if necessary to protect the public health, safety and welfare.

Subdivision 1600.0 Severability

It is the intention of the County Board that this Ordinance be severable as follows:

1601.0 Validity of Provisions. If any Court of competent jurisdiction shall determine any provision of this Ordinance invalid, the determination shall not affect other provisions of this Ordinance not specifically included in the judgment.

1602.0 Validity of Application of Provisions. If any Court of competent jurisdiction shall determine invalid the application of any provision of this Ordinance to a particular structure, site, facility, operation or solid waste collection service, the determination shall not affect the application of the provision to any other structure, site, facility, or operation not specifically included in the judgment.

Subdivision 1700.0 Definitions

1701.0 Rules of Interpretation: If not specifically described in this Section, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. Certain terms and words are interpreted as follows:

- A. The word "Person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. The word "shall" is mandatory and not discretionary, and the word "may" is permissive.
- C. Words used in the past tense shall include the present and future; and words used in the singular shall include the plural, and the plural the singular.
- D. The term "used for" shall include the terms "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
- E. All stated distances shall be to the nearest integral foot. If a fraction exists, the next integral foot shall be taken.

1702.0 Definitions:

- A. Words and phrases beginning with the letter ‘A’
1. **Abandoned Property.** Deteriorated, wrecked, or derelict property in unusable condition. The term includes, but is not limited to, deteriorated, wrecked, inoperable, or partially dismantled motor vehicles, trailers, plumbing fixtures, and furniture.
 2. **Accessory Farm Occupation.** An occupation other than farming occurring at a farmstead site that involves the sale of goods or services, and is clearly secondary to the primary agricultural occupation conducted from the same site.
 3. **Accessory Structure.** A use or structure on the same lot with, the principal use or structure, which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks. An unattached garage is considered an accessory structure.
 4. **Accessory Use.** A use incidental to the principal use of a lot or a building located on the same lot as the principal use.
 5. **Administrator.** The Environmental Office Staff designated by the Lincoln County Board of Commissioners to administrate this Ordinance.
 6. **Adult Uses.** Adult uses include, but are not limited to, adult bookstores, adult motion picture theaters, adult picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of “specified sexual activities” and “specified anatomical areas” which are capable of being seen by members of the public.
 - a. **Accessory Adult Use.** A use, business, or establishment having ten percent (10%) or less of its stock in trade or floor area allocated to, or twenty percent (20%) or less of its gross receipts derived from movie rentals or magazine sales.
 - b. **Principal Adult Use.** A use, business, or establishment having more than ten percent (10%) of its stock in trade or floor area

allocated to, or more than twenty percent (20%) of its gross receipts derived from movie rentals or magazine sales.

- c. **Body Painting Studio, Adult Use.** A business or establishment which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of “specified anatomical area”.
- d. **Bookstore, Adult Use.** A building or portion of a building used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age and if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas”.
- e. **Cabaret, Adult Use.** A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age and such dancing or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas”.
- f. **Companionship Establishment, Adult Use.** A companionship establishment which excludes minors by reason of age or which provides the service of listening to or engaging in conversation, talk, or discussion between an employee or the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- g. **Conversation/Rap Parlor, Adult Use.** A conversation/rap parlor which excludes minors by reason of age or which provides the service of listening to or engaging in conversation, talk, or discussion, if such service is distinguished or characterized by and emphasis on “specified sexual activities” or “specified anatomical areas.”
- h. **Health/Sport Club, Adult Use.** A health/sports club which excludes minors by reason of age and such club is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

- i. **Hotel/Motel, Adult Use.** A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, or describing or relating to “specified sexual activities” or “specified anatomical areas.”
- j. **Massage Parlor, Adult Use.** A massage parlor which restricts minors by reason of age and which provides the service of massage if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- k. **Mini Motion Picture Theater, Adult Use.** A building or portion of a building with a capacity of less than fifty (50) persons used for presenting material if such building and ~~or~~ portion of a building as a prevailing practice excludes minor by reason of age or if such material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observations by patrons therein.
- l. **Modeling Studios, Adult Use.** An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- m. **Motion Picture Arcade, Adult Use.** Any place to which the public is permitted or invited wherein coin operated or slug operated, or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”
- n. **Motion Picture Theater, Adult Use.** A building or portion of a building with a capacity of more than fifty (50) persons used for presenting material if such building and portion of a building as a prevailing practice excludes minor by reason of age or if such material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

- o. **Novelty Business, Adult Use.** A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
- p. **Sauna, Adult Use.** A sauna which excludes minors by reason of age, or which provides a team bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- q. **Steam Room/Bathhouse Facility, Adult Use.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- r. **Police Related Service Calls.** Requests for assistance made to the Lincoln County Sheriff’s Office from a neighboring resident, a victim of crime, a patron of the establishment, or the management of the Adult Use. Such calls may include but are not limited to: assaults, disorderly conduct, indecent exposure, prostitution, and trespassing.
- s. **Minor.** Person(s) under eighteen (18) years of age.
- t. **Specified Anatomical Areas:**
 - i. Human genitals, pubic region, buttock, anus, or female breast(s), below a point immediately above the top of the areola, unless completely and opaquely covered.
 - ii. Erect penis, even if completely and opaquely covered.
- u. **Specified Sexual Activities:**
 - i. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or use of excretory functions in the context of a sexual relationship, and any of the following sexual-oriented acts of conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus,

13. **Airport.** A place where aircraft can land and take off, both private and public.
14. **Alley.** Any right-of-way dedicated to vehicular travel, less than forty (40) feet in width, including private roads serving more than one dwelling or principal use.
15. **Anchoring System.** Any method of securing a manufactured home to a foundation system.
16. **Animal Carcass Disposal Plan.** The proper and sanitary disposal of dead animals.
17. **Animal Unit** (a unit of measurement). For the purposes of this Ordinance any animal not listed on the *Animal Unit Equivalent Table* shall be used. For animals not listed in the *Animal Unit Equivalent Table*, the number of animal units is the average weight of the animal divided by 1,000 pounds.

Animal Unit Equivalent Table*

<u>Animal(s)</u>	<u>Equivalent</u>
One Mature Dairy Cow (whether milked or dry):	
a) over 1,000 pounds	1.4 animal units
b) under 1,000 pounds	1.0 animal units
One Heifer	0.7 animal units
One Calf	0.2 animal units
One Beef Cattle	
a) One slaughter steer or stock cow	1.0 animal units
b) One Feeder Cattle (stocker or back grounding) or heifer	0.7 animal units
c) One Calf	0.2 animal units
One Head Swine	
a) over 300 pounds	0.4 animal units
b) between 55-300 pounds	0.3 animal units
c) under 55 pounds	0.05 animal units
One Horse	1.0 animal units
One Sheep or Lamb	0.1 animal units
Chickens	
a) One laying hen or broiler, if the facility has a liquid manure system	0.033 animal units
b) One chicken if the facility has a dry manure system:	
over five pounds	0.005 animal units
under five pounds	0.003 animal units
One Turkey	
a) over five pounds	0.018 animal units
b) under five pounds	0.005 animal units
One Duck	0.01 animal units

*Source: Minnesota Pollution Control Agency

18. **Arterial Street or Highway (Primary).** A street or highway of considerable continuity designed primarily to serve as an intercommunication link between the sectors of the County and beyond such as from within a city to outlying areas.
19. **Authorized Representative.** An employee or agent of the County Environmental Office.

B. Words and phrases beginning with the letter 'B'

1. **Backyard Compost Site.** A site used to compost food scraps, garden wastes, weeds, lawn cuttings, leaves, and prunings from a single family or household, apartment building, or single commercial office, a member of which is the owner, occupant or lessee of the property.
2. **Basement.** Any area of a structure, including crawl spaces, having its floor or base sub grade (below ground level) on all four (4) sides, regardless of the depth of excavation below ground level.
3. **Best Management Practices.** A practice or practices determined to be the most effective, practical means of preventing or reducing pollution from point and non-point sources.
4. **Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent (18%) over a distance for fifty (50) feet or more shall not be considered part of the bluff):
 - a. Part or all of the feature is located in a shore land area.
 - b. The slope rises at least twenty-five (25) feet above the ordinary high water level of the water body.
 - c. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages 30 percent (30%) or greater.
 - d. The slope must drain toward the water body.
6. **Bluff Impact Zone.** A bluff and land located within twenty (20) feet from the top of a bluff.
7. **Bluffline.** A line along the top of a slope connecting the points at which the slope becomes less than 13 percent (13%). This applies to those

slopes within the land use district(s) that are beyond the setback provisions from the ordinary high water mark.

8. **Board of Adjustment.** A board established by Section XVI of this Ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statutes.
9. **Board of Appeals.** The County Board of Appeals, as established by Section XVI of this Ordinance. The Lincoln County Board of Commissioners shall act as a Board of Appeals.
10. **Boat House.** An enclosed structure designed and used for the storage of boats or boating equipment located on the landward side of the normal high water mark, not used as a dwelling, and not containing any sanitary facilities.
11. **Building.** Any structure 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 building so separated shall be deemed a separate building.
12. **Building Drain.** The building drain is part of the lowest horizontal piping of a building drainage system that receives the discharge from soil, waste and other drainage pipes inside the walls of any building and conveys the same to the building sewer.
13. **Building Height.** The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.
14. **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.
15. **Building, Principal.** The principal building is a non-accessory building in which is conducted the principal use of the building site on which it is located. Only one principal building shall be located per building site. For farmsteads, the principal building is the farm dwelling. If no habitable dwelling exists, the Zoning Administrator shall determine the principal building.
16. **Building Sewer.** The building sewer is that part of the horizontal portion of the building drainage system which extends from the end of the

building drain and conveys its discharge to an individual sewage treatment system.

17. **Building Site.** A lot or contiguous lots under single ownership used or proposed for use as a location for a structure or structures.
18. **Business and Industry District.** A Zoning District, identified by measuring from one-quarter ($\frac{1}{4}$) miles outside a municipal boundary limits to one and one-quarter ($1\frac{1}{4}$) miles outside a municipal boundary limits.
19. **Business Uses.** Includes gasoline stations, beauty shops, dog kennels, salvage yards and similar uses provided they meet the minimum standards of this Ordinance.

C. Words and phrases beginning with the letter 'C'

1. **Campground.** An area containing two or more campsites or camping spurs for tents and/or recreation vehicles occupied as temporary living quarters.
2. **Cemetery.** Land used or intended to be used for the burial of human remains.
 - a. **Inactive Cemetery-** no burials have taken place for twenty (20) years.
 - b. **Active Cemetery-** In use.
3. **Certificate of Compliance.** A letter from the MPCA or the County Feedlot Pollution Control Officer to the owner of an animal feedlot stating the feedlot meets MPCA requirements and the livestock operation does not create or maintain a potential pollution hazard or the potential pollution hazard has been corrected to meet MPCA requirements.
4. **Chemical investigation site.** 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.
5. **Child.** Any person less than eighteen (18) years of age.
6. **Church.** A structure where regular worship services are held that is recorded with the County Recorder. Must also be registered as a church with the Minnesota Department of Revenue.
7. **Clandestine drug lab operation.** 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.

8. **Clandestine drug lab site.** Any parts of a structure such as a dwelling, building, motor vehicle, trailer, boat, or other structure or appliance occupied or affected by conditions and/or chemicals, typically associated with a clandestine drug lab operation.
9. **Class V. Injection Well.** A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than twenty (20) people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).
10. **Cleanup.** The 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.
11. **Clear-Cutting.** See Intensive Vegetation Clearing.
12. **Cluster Development.** A pattern of subdivision development placing housing units in compact groupings while providing a network of commonly owned or dedicated open space.
13. **Cluster system.** A wastewater collection and treatment system under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.
14. **Collection.** The aggregations of solid waste from its generated site. Includes all activities up to the time the waste is delivered to a waste facility.
15. **Collector Street (Secondary).** Designed to serve the internal traffic circulation of a recognized land use area that distributes and collects traffic from local streets and connects with Arterial Streets and/ or Highways.
16. **Commercial.** Business activity of a normal nature and including travel related facilities as automobile accessory stores and gasoline filling stations, bowling alleys, cafes (including drive-in eating establishments), dairy product stores, self-service laundries, liquor stores, motels, hotels, restaurants and resorts and related recreational uses.

17. **Commercial Hauler.** Person who owns, operates, or leases vehicles to collect or transport waste.
18. **Commission, Solid Waste.** A Solid Waste Joint Powers formed to administer, plan and/ or implement regional solid waste management activities.
19. **Commissioner.** "Commissioner" means the Commissioner of the Minnesota Department of Natural Resources.
20. **Community Water or Sewer System.** Systems serving a group of buildings, lots or an area of the County, with the design and construction approved and regulated by the appropriate state or federal agencies.
21. **Compost Facility.** A site used to compost or co-compost solid waste including structures used to control drainage, collect and treat leachate, and storage areas for incoming solid waste, the final product, and residuals resulting from the composting process.
22. **Concentrated Animal Feeding Operation (CAFO).** Animal feedlots meeting the definition of a CAFO in Code of Federal Regulations, title 40, section 122.23.
23. **Conditional Use.** A land use or development as defined by ordinance not appropriate generally but may be allowed with appropriate restrictions provided by official controls upon finding that:
 - a. Certain conditions as detailed in the Zoning Ordinance exist, the use of development conforms to the Lincoln County Management Plan, and is compatible with the existing permitted uses of the district.
24. **Conditional Use Permit.** Issued by the County in accordance with procedures specified in this Ordinance which would assign dimensions to a proposed use or conditions surrounding it.
25. **Controlled Substance.** A drug, substance or immediate precursor in schedule I through V of Minnesota Statute Chapter 152.02, as amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
26. **County.** Lincoln County, Minnesota. Any department or representative of the County who is authorized by this Ordinance or otherwise by the County Board to represent the County of Lincoln in the enforcement or administration of this Ordinance.

27. **County Board.** Lincoln County Board of Commissioners.
28. **Cover Material.** Material 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 compatibility. Suitable cover material may include, but are not limited to, sandy loam, loam, sandy clay loam, silty clay loam, clay loam, sandy clay, and loamy sand.

D. Words and phrases beginning with the letter 'D'

1. **Dead Box.** A four sided container and a cover for housing animal carcasses awaiting pick up or disposal.
2. **Deck.** A horizontal, unenclosed platform extending more than three feet above the ground.
3. **Delegated County.** A County that has applied for and received authorization pursuant to part 7020.1600, subpart 3, item C, to implement an animal feedlot program. Lincoln County is a delegated county.
4. **Demolition Landfill.** Solid waste from the demolition of buildings, roads and other man-made structures such as concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts but not asbestos waste.
5. **Demolition Waste.** Non-putrescible waste from the construction, remodeling, repair or demolition of structures including buildings and paved roads. It includes waste building materials, packaging and rubble such as concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, structural metals, insulation, roofing material, and plastic building parts. It may also include other waste materials adopted by the Agency. It does not include contaminated soils, hazardous waste, asbestos, industrial waste, or appliances.
6. **Demolition Waste Facility.** An area for the disposal of demolition waste without creating nuisances or hazards to the environment or public operated in compliance with this Ordinance and the Agency.
7. **Department.** The Lincoln County Environmental Office
8. **Depth of Lot.** Mean horizontal distance between the mean front and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage as its width.

9. **Depth of Rear Yard.** Mean horizontal distance between the rear line of the building and the center line of an alley, where an alley exists, otherwise a rear lot line.
10. **Design Flow.** The daily volume of wastewater for which an onsite or cluster septic system is designed to treat and discharge.
11. **Designation.** A requirement by waste management district or county that all or any portion of the mixed municipal solid waste generated within its boundaries be delivered to a processing or disposal facility identified by the district or county.
12. **Director of Environmental Health.** Lincoln County Environmental Office staff.
13. **Disposal.** Discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste may enter the environment or be emitted into the air, or discharged into any waters.
14. **Disposal Facility.** A waste facility permitted by the Agency designed or operated for disposing waste on or in the land, together with any facilities needed to process waste for disposal or transport to another waste facility.
15. **District.** A section of the County which the regulations governing the height, area, use of buildings and premises are the same.
16. **Dock.** An open, uncovered platform or walkway for access from the normal high water mark to and over the water. A temporary structure removed from the water when the lakes are frozen.
17. **Dwelling.** Any building or part thereof designed or used for residential purposes.
18. **Dwelling, Abandoned.** Any building or part thereof designed or used for residential purposes that has not been occupied for a period of one (1) year or more and has deteriorated to an uninhabitable state will not be considered a residence.
19. **Dwelling; Duplex, Triplex, and Quad.** A dwelling 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.
20. **Dwelling, Farm.** Located on a farm where the resident of the dwelling either owns, operates, or is employed.

21. **Dwelling, Rural.** Located on a parcel of land contiguous to or surrounded by farmland under separate ownership and operation.
22. **Dwelling, Single Family.** A free standing residence designed for or occupied by one (1) family.
23. **Dwelling Site.** A lot or designated parcel for dwelling units.
24. **Dwelling, Temporary.** Dwelling units or sites intended primarily for temporary or transient occupancy. Including camping and recreational vehicle sites, motels, hotels, and resort rooms or cabins.
25. **Dwelling Unit.** Any structure or portion of a structure, or other shelter designed as living quarters for one or more persons. Individual bathrooms and complete kitchen facilities, permanently installed shall be included for each dwelling unit.

E. Words and phrases beginning with the letter 'E'

1. **Earthen Storage Basin.** An impoundment made by excavation or earthfill for temporary storage of animal or other agricultural waste.
2. **Easement.** A grant by a landowner for use by the public, or to a person or persons.
3. **Easement, Utility.** A grant by a property owner for the use of land for constructing and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.
4. **Environmental Remediation.** The process of cleaning or removing pollution from soil, water, and air.
5. **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.
6. **Essential Services.** Include wind conversion units, overhead or underground electrical, gas, stream or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures, used by public utilities, rural electric cooperatives or governmental departments or commissions or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings. For the purpose of this Ordinance the word "building" does not include "structure" for essential services.
7. **Extractive Use.** Any excavation exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, of sod, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any installation erected or to be erected, built, or placed thereon in conjunction with or immediately following such excavation shall be exempted, if a permit has been issued for such construction for installation.

F. Words and phrases beginning with the letter 'F'

1. **Failure to Protect Groundwater.** At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a qualified employee or a currently licensed inspection business.
2. **Farm.** Land principally for agricultural activities such as the production of crops and/or livestock. A farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm and must meet the definition of "farm" under Minnesota's Green Acres Law (Minn. Stat. § 273.111).
3. **Farming.** The cultivation of the soil and all agricultural related activities.
4. **Farmstead.** A developed area to support farm activities. A variety of structures, storage areas, and other facilities, including adjacent windbreaks and shelterbelts, typically comprise a farmstead. The area may contain one or more farm dwellings. A livestock feedlot may be present within the defined area of a farmstead, but for the purposes of this Ordinance, livestock feedlots shall not be considered to be part of a farmstead. A farmstead has boundaries that can be approximately defined and differentiated from surrounding fields and pastures, and the administrator shall determine such boundaries as necessary.
5. **Farmstead Windbreak.** Rows of trees and or shrubs protecting the farmstead home, buildings and or livestock.
6. **Feedlot, Existing.** A livestock feedlot used at the time of adoption of this Ordinance. Include the confined feedings, breeding, raising or holding of livestock in uncovered enclosures specifically designed as confinement areas in which animal manure may accumulate. This shall not include areas normally used for pasture or crops.
7. **Feedlot Expansion.** An increase in the capacity of an existing animal feedlot.
8. **Feedlot, Livestock.** A lot or building or combination of lots and buildings for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For the purposes of this Ordinance, open lots used for feeding and rearing of

poultry (poultry ranges) shall be considered animal feedlots. Pastures shall not be considered animal feedlots. The Administrator shall define the area covered by a feedlot.

9. **Feedlot, New.** A livestock feedlot on a site where no feedlot existed prior to the adoption of this Ordinance, or a livestock feedlot where a preexisting livestock feedlot has been abandoned or unused for a period of five years or more.
10. **Feedlot Officer.** Lincoln County Environmental Office Administrator or designated staff.
11. **Feedlot Permit.** NPDES Permit, SDS Permit, Interim Permit, Construction Short Form Permit, or 2005/2010 Open Lot Agreement Permit required by all feedlots (new or existing) requesting construction, expansion, or pollution abatement at their feedlot facility.
12. **Feedlot Setback.** Nearest point of a neighboring dwelling to the nearest corner of the livestock or manure holding structure.
13. **Final Plat.** Drawing or map of a subdivision, meeting all of the requirements of the County and Minnesota State Statutes regarding the platting of land and in such form as required for the purposes of recording.
14. **Flood.** A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.
15. **Flood Frequency.** The average frequency, statistically determined, for which it is expected that a specific flood state or discharge may be equaled or exceeded.
16. **Flood Fringe.** That portion of the flood plain outside the floodway.
17. **Flood Plain.** The channel or beds proper and the areas adjoining a wetland, lake or watercourse that has been or hereafter may be covered by the regional flood. Flood Plain areas in Lincoln County shall encompass all areas designated as Zone A on the Flood Insurance Rate Map as defined in Lincoln County Ordinance No. 27 entitled "Flood Plain Management Ordinance 'General Flood Plain Ordinance'".
18. **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.

19. **Floodway.** The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining flood plain that is reasonably required to carry and discharge the regional flood.
20. **Foundation System.** "Foundation System" means a permanent foundation constructed in conformance with state building codes.

G. Words and phrases beginning with the letter 'G'

1. **Garbage.** Discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.
2. **Guest Cottage.** 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.

H. Words and phrases beginning with the letter 'H'

1. **Hardship.** As used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Variances shall be granted for earth sheltered construction as defined in Minn. Stat. § 216C.06, Subdivision 2, when in harmony with the official controls. The Board of Adjustment may consider the inability to use solar energy a "hardship" in the granting of Variances.
2. **Hazardous Waste.** Any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

3. **Health Authority.** Lincoln County Board of Commissioners.
 4. **Home Occupations.** Any occupation of a service character clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use.
 5. **Household Hazardous Waste.** Waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under Agency Rules, but does not include waste from commercial activities that is generated, stored, or present in a household. Household Hazardous Wastes include, but are not limited to, paints, solvents, cleaners, pesticides, herbicides, paint thinner, drain opener, varnishes, stains, and adhesives.
- I. Words and phrases beginning with the letter 'I'
1. **Imminent Threat to Public Health and Safety.** At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a qualified employee inspector or a currently licensed inspection business.
 2. **Incineration.** Burning solid wastes for energy recovery or volume and weight reduction in facilities designed for such use.
 3. **Incorporated.** A legally organized group of persons or properties governed by local law (an incorporated city or municipality).
 4. **Individual Sewage Treatment System (ISTS).** A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, which uses subsurface soil treatment and disposal, having a design flow of no more than 5,000 gallons per day.
 5. **Industrial.** Any activity engaged in the cleaning, servicing, testing, repair or storage of goods and products.
 6. **Industrial Use.** Includes facilities used for the storage of agriculturally related products such as grain and fertilizer bins or beet piles and the storage of energy related products such as propane and natural gases in the Rural Preservation Areas.

7. **Industrial Waste.** Waste generated from an industrial or manufacturing process and waste generated from non-manufacturing activities such as service and commercial establishments. Industrial waste does not include office materials, restaurant and food preparation waste, discarded machinery, demolition waste, or household waste.
 8. **Infectious Waste.** Laboratory waste, blood, regulated body fluids, sharps and animal research waste that have not been decontaminated.
 9. **Injected.** When manure is mechanically injected or tilled into the soil during manure application.
 10. **Intensive vegetation clearing.** The complete removal of contiguous trees or shrubs.
 11. **Interim Permit.** A temporary permit issued by the MPCA of the County Feedlot Pollution Control Officer, for facilities that are creating ground or surface water quality problems, for which solutions will be developed and implemented within two (2) years. After the problems are resolved, the feedlot may be considered in Compliance. The interim permit is valid for no longer than two (2) years from the date of issue.
 12. **Intermediate Disposal Facility.** A facility for the temporary collection, storage, reduction, recycling, or processing of waste prior to final disposal.
- L. Words and phrases beginning with the letter 'L'
1. **Label.** The approved form of certification required by the Department of Housing and Urban Development to be affixed to each transportable section of each manufactured home manufactured for sale, after June 14, 1976, to a purchaser in the United States.
 2. **Land Pollution.** The presence in or on the land of any waste or waste by-products in such quantity, of such nature and duration, and under such conditions that would negatively affect any waters of the state, create air contaminants, cause air pollution, or contaminate soils at the site making the site unacceptable for further use.
 3. **Law Enforcement.** Any licensed peace officer.
 4. **Licensee.** Person given authority by the County Board to carry out any of the activities for which a license is required under the provisions of this Ordinance.
 5. **LCSWCD.** The Lincoln County Soil and Water Conservation District.

6. **Liquid Manure.** Manure with four percent solids or less.
7. **Liquor License.** Any of the following licenses issued or approved by the County of Lincoln pursuant to Minn. Stat. §340A:
 - a. On-Sale Intoxicating Malt Liquor License, or
 - b. On-Sale Intoxicating Liquor License
 - c. On-Sale Wine License.
 - d. Non-Intoxicating Malt Liquor
8. **Littering.** The unlawful placing of any portion of solid waste in or on public or private lands, shorelands, roadways, or waters.
9. **Livestock.** Beef and dairy cattle, horses, swine, sheep and poultry.
10. **Livestock Waste Lagoon.** A diked enclosure for storage of livestock wastes.
11. **Local Street (Tertiary).** A street designed for access to abutting property and not intended to facilitate through traffic.
12. **Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
13. **Lot Area.** Land within the lot lines.
14. **Lot, Corner.** A lot at the junction of and fronting on two or more intersecting streets.
15. **Lot Depth.** The mean horizontal distance between the mean front road right-of-way line and mean rear lot line or OHWL. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.
16. **Lot, Double Frontage.** A lot having frontage on two parallel or approximately parallel streets.
17. **Lot Lines.** The lines bounding a lot, as defined herein. When a lot abuts a road, street, highway, avenue, parkway or other public rights-of-way, except an alley, such line shall be known as a right-of-way line and when a lot line abuts on an alley, it shall be known as an alley line. For Riparian lots, the OHWL shall be considered a lot line. On parcels without defined lot lines, the Administrator shall determine the location of lot lines as necessary.

18. **Lot of Record.** Any lot of record by deed, contract for deed, or plat filed in the office of the County Recorder on or before the effective date of this Ordinance.
19. **Lot Width.** The shortest distance between lot lines measured at the midpoint of the building line.

M. Words and phrases beginning with the letter 'M'

1. **Malfunction, SSTS.** The partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.
2. **Management Plan, SSTS.** A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.
3. **Manufactured Home (TYPE I).** A manufactured home with a floor area of less than eight hundred (800) square feet that are living quarters designed for transportation after fabrication on streets and highways on its own wheels or on a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location of jacks, connection to utilities and the like. A manufactured home shall meet the requirements of the Manufactured Home Building Code as defined in Minnesota Statutes Section 327.31 Subdivision 3.
4. **Manufactured Home (TYPE II).** Manufactured homes with a floor area of greater than eight hundred (800) square feet shall meet the following specifications:
 - a. The structure shall have a permanent masonry or wood foundation meeting the requirements of the State Building Code that shall be solid for the complete circumference of the structure.
 - b. The minimum average width of the structure and foundation shall be twenty (20) feet.
 - c. A single-family unit shall contain a minimum of eight hundred (800) square feet.
 - d. The structure shall have conventional siding, lapping the foundation by a minimum of one (1) inch.
 - e. The structure shall be anchored in accordance with the State Building Code.
 - f. The structure shall have a pitched roof, covered with shingles or tile, with a minimum of twelve (12) inch eaves.

3. **Manufactured Home Building Code.** "Manufactured Home Building Code" means, for manufactured homes manufactured after July 1, 1972, and prior to June 15, 1976, the standards code promulgated by the American National Standards Institute and identified as ANSI A119.1 including all revisions thereof in effect on May 21, 1971, or the provisions of the National Fire Protection Association and identified as NFPA S01B, and further revisions adopted by the Commissioner of Administration. "Manufactured Home Building Code" means, for manufactured homes constructed after June 14, 1976, the manufactured home construction and safety standards promulgated by the United States Department of Housing and Urban Development that are in effect at the time of the manufactured home's manufacture.
4. **Animal Manure.** Poultry, livestock or other animal excreta or a mixture of excreta with feed, bedding, precipitation or any other materials.
5. **Manure Incorporation.** When manure is mechanically applied to the ground surface and mechanically incorporated in the soil within 24 hours of surface application.
6. **Manure Management Plan.** Includes but not limited to, manure handling and application techniques, signed spreading agreements, contracts and acreage available for manure application and plans for proposed manure storage structure, and as further defined by the MPCA.
7. **MDNR or DNR.** The Minnesota Department of Natural Resources.
8. **Metes and Bounds.** A method of property description by means of their direction and distance from an easily identifiable point.
9. **Midsized Subsurface Sewage Treatment System (MSSTS).** Sewage treatment system under single ownership that receives sewage from dwellings or other establishments having a design flow of more than Five Thousand (5,000) gallons per day to a maximum of Ten Thousand (10,000) gallons per day.
10. **Milking Center Waste Water.** Wastes from the milk house and pipelines or parlor milking systems such as prepping and disinfecting of cows, cleaning and sanitizing milking equipment and bulk tanks; washing down of milk house, milking parlor and holding areas; discarding of milk, pre-cooling milk and softener water discharge.
11. **Mining Operation.** The removal of stone, sand and gravel, clay, topsoil, coal, salt, iron, copper, nickel, petroleum or other mineral from the land for commercial, industrial or governmental purposes.

12. **Minor Repair, SSTS.** The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.
13. **Mixed Municipal Solid Waste (MSW).** Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities generated and collected in aggregate, but does not include auto hulks, street sweepings, hazardous waste, ash, incinerator ash, incinerator residue, construction debris, mining waste, sludges, tree and agricultural wastes, tires, and other materials collected, processed and disposed of as separate waste streams.
14. **Mobile Home.** A single family dwelling having the characteristics of a manufactured home but which does not meet the standards of the manufactured home building code as evidenced by the appropriate seal and/or label. For the purpose of this Ordinance, a mobile home shall constitute a separate class of land use allowed only where specifically designated.
15. **Mobile Home Park.** Any lot or parcel of land under single ownership or control which has been planned and improved for the placement of two or more mobile or manufactured homes.
16. **MPCA or PCA.** The Minnesota Pollution Control Agency.
17. **Municipality.** An incorporated city.
18. **Municipal Boundary.** The perimeter defining the outside limits of a municipality

N. Words and phrases beginning with the letter ‘N’

1. **Neighboring Dwelling.** A family dwelling, seasonal dwelling, building site or vacant site that shows evidence of once being a dwelling, shall be considered a neighboring dwelling for these purposes unless owned by the applicant.
2. **Nonconformity.** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of this Ordinance or amendments that would not have been permitted to become established under the terms of this Ordinance, if this Ordinance had been in effect prior to the date it was established, recorded or authorized. Any use, structure or parcel created illegally shall not be treated as a

nonconformity. Also nonconforming use, structure, lot, building, sewage treatment system.

3. **Non-farm Dwelling.** Homes and accessory structures occupied by persons whose predominant income is not derived from agricultural activities.
 4. **Normal High Water Level.** A mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. The normal high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
 5. **Notice of Noncompliance.** A written document issued by the Department to notifying a system Owner that the Owner's onsite/cluster treatment system has been observed to be noncompliant with the requirements of this ordinance.
 6. **NPDES.** The National Pollutant Discharge Elimination System. Issued to large facilities one thousand (1,000) animal units or more) or large CAFO's as defined by the EPA that have the potential to discharge to waters of the state.
 7. **NRCS.** The United States Department of Agriculture, Natural Resources Conservation Service.
 8. **Nuisance.** A condition or situation that results in an interference with the enjoyment and use of property.
- O. Words and phrases beginning with the letter 'O'
1. **Obstruction.** Any dam, well, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, building, 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. **Official Control.** Legislatively defined and enacted policies, standards, precise detailed maps, and other criteria which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into ordinances all or any part of the general objectives of the Lincoln County Comprehensive Land Use Plan. Such official controls may include but are not limited ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps.

3. **Official Map.** A map or series of maps adopted in accordance with Minn. Stat. ~~§Section 394.361 of Minnesota Statutes~~ that may show existing county roads and county state aid highways, proposed future county roads and highways and the area needed for widening existing public land and facilities and other land needed for future public purposes, including public facilities such as parks, playgrounds, schools, and other public buildings, civic centers, and travel service facilities. When requested in accordance with Minn. Stat. ~~§Section 394.32, Subdivision 3,~~ an official map may include existing and planned public land uses within incorporated areas.
 4. **Official Zoning Map.** A map or series of maps depicting zoning districts, including, but not limited to Land Use Zoning Districts, Flood Plain and Shoreland Districts.
 5. **Open Space Recreation Uses.** Recreation uses particularly oriented to and utilizing the outdoor character of an area; include public and private parks and recreation areas, wildlife management and water production area, multi-purpose trail systems, environmental education sites, historic sites and interpretive centers.
 6. **Ordinary High Water Level (OHWL).** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the OHWL is the operating elevation of the normal summer pool.
 7. **Owner.** Any individual, firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient proprietary interest in a property to commence and maintain proceedings under this Ordinance, or the owner of record.
- P. Words and phrases beginning with the letter ‘P’
1. **Pastures.** Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.
 2. **PCA.** Minnesota Pollution Control Agency (MPCA).

3. **Permitted Use.** A public or private use which conforms ~~with~~ to the purposes, objectives, requirements, regulations and performance standards of a particular district.
4. **Person.** Any individual, firm, partnership, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee, or other similar representative thereof.
5. **Pier.** An open, uncovered permanent structure used to provide access from the OHWL into the water.
6. **Planning Commission.** The duly appointed Planning Commission of the County Board.
7. **Plat, Final.** A finished drawing showing all legal information and certifications necessary for recording, as provided by statute and this Ordinance.
8. **Plat, Preliminary.** Drawings and supporting data that show the proposed subdivision design in sufficient detail to indicate its suitability for development in all aspects.
9. **Plot.** A tract other than one unit of a recorded plat or subdivision and occupied and used or intended to be occupied and used as an individual site and improved or intended to be improved by the erection thereon of buildings and having a frontage upon a public road or highway or upon a traveled or used road and including as a minimum such open spaces as required under this Ordinance.
10. **Potential Pollution Hazard.** An animal feedlot or storage area that:
 - a. Comply with the requirements of parts of Minn.Stat. § Chapter 7020.2000 to 7020.2225 and has not been issued an SDS or NPDES permit establishing an alternative constriction or operating method or:
 - b. Presents a potential or immediate source of pollution to waters of the state as determined by inspection by a county feedlot pollution control officer or agency staff taking into consideration the following:
 - (1) The size of the animal feedlot or manure storage area;
 - (2) The amount of pollutants reaching or that may reach waters of the state;

- (3) The location of the animal feedlot or manure storage area relative to waters of the state;
- (4) The means of conveyance of animal manure or process wastewater into waters of the state. And
- (5) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal manure or process wastewater into waters of the state

11 **Poultry.** Domestically raised fowl including, but not limited to, chickens, turkeys, ducks, geese and game birds.

12 **Primary Use.** The predominant use of the land or buildings as distinguished from subordinate or accessory uses. A primary use may be either permitted or conditional.

13 **Primitive Campsites.** An area with ~~of~~ individual remote campsites accessible only by foot or water.

14 **Public Health Authority.** Lincoln, Lyon, Murray and Pipestone Counties Public Health Services as established pursuant to the Local Health Act, Minnesota Statute Chapter 145A.

15 **Public Health Nuisance.** As defined in Minn. Stat. §145.02, Subd. 17.

16 **Public Owned Sewer.** Septic systems governed by a body of elected officials (homeowners association, sewer districts, municipalities, local units of government).

17 **Public Parks.** Any public land available for recreational, educational, cultural, or aesthetics use. The area is open to the public and reserved for recreational, educational or scenic purposes. This does not include Management Areas owned or operated by the DNR, US Fish and Wildlife, or the Department of the Interior.

18 **Public Water.** Any waters as defined in Minn. Stat. § 103G.005, Subdivisions 14 and 15. A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of this type of Ordinance, any body of water that has the potential to support any recreational pursuit or water supply purpose. The term "protected water" is synonymous with the term "public water" for the purpose of this Ordinance.

19 **Putrescible.** Liable to decay, spoil or become putrid.

Q. Words and phrases beginning with the letter 'Q'

1. **Qualified Employee.** An employee of the state or local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual's employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.
2. **Quorum.** The minimal number of officers and members of a committee or organization, usually a majority, who must be present for valid transaction of business

R. Words and phrases beginning with the letter 'R'

1. **Reach.** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction.
2. **Record Drawings, SSTS.** A set of drawings which reasonably document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.
3. **Recycling facility.** A site used to collect, process, and repair recyclable materials and reuse them in their original form or use them in manufacturing processes.
4. **Refuse.** Putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, market and industrial solid wastes, and including municipal treatment wastes, which are in dry form.
5. **Regional Flood.** A flood that 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.
6. **Regulatory Flood Protection Elevation.** An elevation no lower than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Ordinance are required to be elevated or flood-protected.

7. **Remediation.** The methods such as assessment, evaluation, testing and venting, detergent scrubbing, enclosure, encapsulation, demolition and/or removal of contaminated materials from a chemical investigation site.
 8. **Residence.** Any Dwelling where an occupant resides for a period of no less than Thirty 30 days in a calendar year.
 9. **Resource Recovery.** The reclamation for sale, use, or reuse of materials, substances, energy, or other products contained within or derived from waste.
 10. **Riparian Lots.** Related to (Lots of property located) on the bank of a watercourse (river, stream, lake).
 11. **Road.** A public right-of-way affording primary access by pedestrians and vehicle to abutting properties, whether designed as a street, highway, parkway, road, avenue, boulevard, lane, service road, place or however otherwise designed. Acceptance of a road for maintenance purposes by a unit of government is not necessary for designation as a road. Consists of either paved or gravel surfaces maintained with federal, state and/or local funds built on new alignment.
 12. **Road, Private.** An unplatted access to more than one (1) lot or parcel, including leased or rental properties where public access is limited.
 13. **Road Right of Way.** A strip of land for public designation occupied or intended to be occupied by a road and its waterway for the purposes of vehicular transportation.
 14. **Rubbish.** Nonputrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.
- S. Words and phrases beginning with the letter ‘S’
1. **Sanitarian.** Lincoln County Environmental Office Administrator or designated staff.
 2. **Sanitary Landfill.** A land disposal site employing an engineered method of disposing of solid wastes 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 Minnesota Pollution Control Agency.

3. **Scavenging.** The uncontrolled removal of solid waste or recyclables from the solid waste system.
4. **Seal.** A devise or insignia issued by the Commissioner of Administration to be displayed on a manufactured home to evidence compliance with the manufactured home building code.
5. **Seasonal Highwater Table.** The highest elevation in the soil where periodically depleted oxygen levels occur because of soil voids being filled with water. Saturated soil is evidenced by presence of soil mottling or other information.
6. **Selective Cutting.** The removal of single scattered trees or shrubs from a larger stand of woody plant materials.
7. **Semi-Solid Manure.** Manure consisting of 4 percent (4%) to 15 percent (15%) solids.
8. **Service Area.** Service area is enacted pursuant to Minn. Stat. § 400.08, which grants Lincoln County the authority to establish and determine the boundaries of the solid waste management areas in the County. The County Board may impose service charges for the area. The Lincoln County Solid Waste Ordinance may require mandatory solid waste collection and mandatory recycling separation in the service area.
9. **Service Road.** A minor street parallel and adjacent to an Arterial Street or Highway and which provides access to abutting properties and protection from through traffic.
10. **Sensitive Resource Management.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
11. **Setback.** The minimum horizontal distance between a structure, sewage treatment system, or other facility and an OHWL, sewage treatment system, top or bluff, road, highway, property line, or other facility.
12. **Setback, Front Yard.** The minimum horizontal distance between a road, ~~and a~~ structure, sewage treatment system, or other facility.
13. **Setback, Rear Yard.** The minimum horizontal distance between a rear property line or alley line, and a structure, sewage treatment system or other facility.

14. **Setback, Riparian or Shoreland.** The minimum horizontal distance between the OHWL, and a structure, sewage treatment system or other facility.
15. **Setback, Side Yard.** The minimum horizontal distance between a side property line and a structure, sewage treatment system, or other facility.
16. **Septage.** Those solids and liquids removed during periodic maintenance of a septic or aerobic tank, or those solids and liquids that are removed from a holding tank.
17. **Sewage.** Any water-carried domestic waste, exclusive of foundation or roof drainage, from any industrial, agricultural, or commercial establishment, or any dwelling or any other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes, and specifically excludes animal waste and commercial or industrial wastewater.
18. **Sewage Treatment System.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in this Ordinance.
19. **Sewer System.** Pipelines or conduits, pumping stations, and force main, and all construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
20. **Shore Impact Zone.** The land located between the OHWL of public water and a line parallel to it at a setback of 50 percent (50%) of the structural setback, or Fifty (50) feet for permitted agricultural land uses.
21. **Shoreland.** Land located within the following distances from public waters: One Thousand (1,000) feet from the OHWL of a lake, pond, or flowage; and Three Hundred (300) feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater.
22. **Shoreland Management District.** Land as defined in Minnesota Statutes, section 103F,205, subd.4, located within the following distances from the ordinary high water elevation of public waters:

- A. Land within One Thousand (1,000) feet from the normal high water mark of a lake, pond, or flowage; and
 - B. Land within Three Hundred (300) feet of a river or stream or the landward side of floodplain delineated by ordinance on such a river or stream, whichever is greater.
23. **Shore land Setback.** The minimum horizontal distance between a structure and the normal high water mark.
 24. **Sign.** A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.
 25. **Sign, Advertising.** A sign that directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located; a billboard.
 26. **Sign, Business.** A sign that directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such a sign is located.
 27. **Sign, Flashing.** Any illuminated sign erected upon a single pylon or post that is in excess of ten (10) feet in height with the sign mounted on the top thereof.
 28. **Sign, Illuminated.** Any sign that has characters, letters, figures, designs, or outlines illuminated by electric lights or luminous tubes as part of the sign.
 29. **Sign, Pylon.** A freestanding sign erected upon a single pylon or post that is in excess of ten (10) feet in height with the sign mounted on the top thereof.
 30. **Sign, Rotating.** A sign that rotates on its axis by mechanical means.
 31. **Sign, Surface Area Of.** The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.
 32. **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

Minn. Stat. § 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.

33. **Solar Easement.** A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner or land or solar sky space for the purpose of assurance adequate exposure of a solar energy system.
34. **Soil and Water Conservation Structures.** Includes water reservoirs, windbreaks and other measures that conform with the management practices encouraged by the Natural Resource Conservation Service, Farm Service Agency, Soil and Water Conservation District and other agencies for the protection of farmland against erosion and public waters from degradation by sedimentation.
35. **Solid Manure.** Manure with more than 15 percent (15%) solids.
36. **Solid Waste.** Garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge, solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.
37. **Solid Waste Administrator.** The Lincoln County Solid Waste Administrator is appointed by the Lincoln County Board of Commissioners. The Solid Waste Administrator is referred to as Administrator or Environmental Office Staff.
38. **Solid Waste Collection Service.** The collection and transporting of solid waste generated in Lincoln County by any person or (residential, business, commercial, governmental) by a hauling service contracted by the generator, or a demolition debris hauling service that transports solid waste separated or mixed with demolition debris, or, a service that hauls recyclables. The self-collection and transportation of solid waste by a

single family resident (1 unit) is exempt from this definition, however, collection from multiple family residences are included in this Ordinance.

39. **Solid Waste Disposal Facility.** Any intermediate or final disposal site, equipment or building operated as a sanitary landfill, incinerator, transfer station, composter, and other operations as defined by this Ordinance, the Agency, and the County.
40. **Solid Waste Management Plan.** The Lincoln County Solid Waste Management Plan, dated February 25, 1991 and amendments thereto.
41. **Source Separated Materials.** Materials separated from solid waste by the generator and recovered for reuse in their original form or for use in manufacturing processes.
42. **Special Public Uses.** Include municipal sewer and water facilities, churches, cemeteries, electrical power sub-stations and similar public uses, but not public or parochial schools, libraries, nursing homes, hospitals, or municipal buildings.
43. **State.** The State of Minnesota.
44. **Steep Slope.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent (12%), as measured over horizontal distances of Fifty (50) feet or more that are not bluffs.
45. **Street.** A public road that affords a principal means of access to abutting property, and having a right-of-way of forty (40) feet or more.
46. **Street, Cul-de-sac.** A local street having one end opened to traffic and the other end terminated by a vehicular turnaround.
47. **Street, Dead-end.** A street having one end opened to vehicular traffic and the other end terminated, but without a vehicular turnaround.
48. **Street, Marginal Access.** A local street parallel and adjacent to a major street; and which provides access to abutting properties and protection from through traffic.

49. **Structure.** Anything constructed on the ground or attached to the ground. Structures may include buildings, transmission towers, signs, electrical substations, pumping stations, poles, wires, overhead and underground electrical, gas, steam, or water transmission or distribution systems and all other structures.
50. **Subdivider.** A person creating a subdivision or seeking to create a subdivision under the provisions of this Ordinance. In addition to the landowner, subdivider may also apply to any authorized agent of the landowner.
51. **Subdivision.** The division or redivision of a lot, tract or parcel of land regardless of how it is to be used into two (2) or more lots either by plat or by metes and bounds description, or the division or redivision of land involving dedication of a new park, playground, street, or other public right-of-way facility; or the vacation, realignment or any other change in existing streets, alleys, easements, recreation areas, water or other public improvements of facilities, provided, however, that the following classes shall be exempt.
- a. The division of land for agricultural purposes into parcels greater than five (5) acres where no new streets, roads or other rights-of-way are involved.
 - b. The division of a lot for the purpose of attachment to contiguous lots provided no residual plat is left unattended.
52. **Subdivision, Major.** Any subdivision other than a minor subdivision.
53. **Subdivision, Minor.** A subdivision consisting of an entire parcel or tract of land under one ownership, containing less than five (5) lots, and in which no land is dedicated for street purposes other than street widening.
54. **Substandard Shoreland Use.** Any use of shorelands existing prior to the date of enactment of any County Ordinance that is permitted within the applicable zoning district but does not meet the minimum lot area and length of water frontage, structure setbacks or other dimensional standards of this Ordinance.
55. **Substandard Use.** Any use within the land use district prior to the date of enactment of the Ordinance that is permitted with the applicable land use district but does not meet the minimum lot area, length of water frontage, structure setbacks or other dimensional standards of the Ordinance.
56. **Subsurface Sewage Treatment System (SSTS).** Either an individual subsurface sewage treatment system or a mid-sized subsurface sewage

treatment system as defined in part Minnesota Rules 7081.0020, subpart 4, as applicable.

57. **Support System.** Any foundation system or other structural method to support a manufactured home at the site of occupancy.

T. Words and phrases beginning with the letter 'T'

1. **Tipping Fee.** The fee charged to collectors and citizens for waste delivered to a Solid Waste Management Facility.
2. **Toe of the Bluff.** The point of a bluff where there is as visually observed a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a Fifty (50)-foot segment, measured on the ground, with an average slope exceeding 18 percent (18%).
3. **Top of the Bluff.** A point on a bluff where there is as visually observed a clearly identifiable break in the slope, steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a Fifty (50)-foot segment, measured on the ground, with an average slope exceeding 18 percent (18%).
4. **Toxic or Hazardous Wastes.** Substances, which when collected, stored, transported, or disposed of, may be acutely toxic to humans, or other animals, or plant life, or be directly damaging to property including, but not limited to, pesticides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, and similar noxious substances.
5. **Transfer Station.** An intermediate waste disposal facility for transferring loads of waste to a transportation unit having a larger capacity. There may be volume reduction at the transfer station. A transfer station may be fixed or mobile.
6. **Transmission Towers.** Structure on which transmitting and/ or receiving equipment is located.
7. **Travel Trailer.** A towed or self-propelled vehicle designed or converted for residential occupancy. Includes all self-propelled types and all mobile homes less than Three Hundred twenty (320) square feet in size.
8. **Treatment Level, SSTs.** Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030, Table III for testing of proprietary treatment products, which include the following:

Level A: cBOD₅ ≤ 15 mg/L; TSS ≤ 15 mg/L; fecal coliforms ≤ 1,000/100 mL.
Level B: cBOD₅ ≤ 25 mg/L; TSS ≤ 30 mg/L; fecal coliforms ≤ 10,000/100 mL.
Level C: cBOD₅ ≤ 125 mg/L; TSS ≤ 80 mg/L; fecal coliforms N/A.

9. **Type I System, SSTS.** An individual subsurface sewage treatment system that follows a standard trench, bed, at-grade, mound, or gray water system design in accordance with Minn. Stat. § Chapter 7080.2200 through 7080.2240.
10. **Type II System, SSTS.** An individual subsurface sewage treatment system with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.
11. **Type III System, SSTS.** A custom designed individual subsurface sewage treatment system having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.
12. **Type IV System, SSTS.** An individual subsurface sewage treatment system, having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.
13. **Type V System, SSTS.** An individual subsurface sewage treatment system, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliform is prevented.

U. Words and phrases beginning with the letter ‘U’

1. **Unincorporated Area.** The areas outside an incorporated city.
2. **Unacceptable Waste.** Waste that is not acceptable at Mixed Municipal Solid Waste Facilities. Unacceptable waste shall include waste which would pose a threat to health and safety, or which may cause damage to, or materially adversely affect the operation of the facility including, but not limited to: explosives, hospital, pathological and biological waste; commercial, industrial, and residential hazardous waste; asbestos in identifiable quantities; street sweepings; ash; mining waste; human or animal remains; chemicals and radioactive materials; cesspool or domestic sewage; waste in liquid state; and any other materials that the County, or

that any other governmental agency or unit having appropriate jurisdiction shall determine, is harmful or of a toxic or dangerous nature.

3. **Use.** The purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.
4. **Use, Accessory.** An accessory building or use is one which is customary and clearly incidental to the principal building or use; serves exclusively the principal building or use; is subordinate in area, extent, or purpose to the principal building or use served; contributes to the comfort, convenience or necessity of occupants of the principal building or use served; and is located on the same building site as the principal building or use served. An accessory building or use includes but is not limited to the following buildings, uses or structures: a children's playhouse, garden house, or private greenhouse, a garage, carport, shed, or building for storage incidental to a permitted use, a dock, pier, or boat house, off-street motor vehicle parking areas and loading facilities, farm structures not designated principal structures, and signs as permitted and regulated in this Ordinance. Accessory buildings and structures shall meet the setback requirements specified in this Ordinance.
5. **Use, Agricultural.** Use of land for the production of food or fiber, their storage on the farm, and/or the raising thereon of domestic farm animals.
6. **Use, Commercial.** Use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
7. **Use, Conditional.** Use or development as defined in this Ordinance which would not be appropriate generally but which may be allowed with appropriate restrictions as provided by this Ordinance upon finding that certain conditions as detailed in the Ordinance exist, and the use is compatible with existing and planned development.
8. **Use, Extractive.** Use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minn. Stat. § 93.44 to 93.51. Any artificial excavation of the earth exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, of sod, soil, sand, gravel, stone or other natural matter, or made by turning or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any structure erected or to be erected, built, or placed thereon in conjunction with or immediately following such excavation shall be exempted, if a permit has been issued for such construction.

9. **Use, Industrial.** Use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
10. **Use, Non-conforming.** Any legal use, structure, sanitary facility or parcel of land already in existence, before the adoption of this Ordinance or amendments thereto that would not have been permitted to become established under the terms of the Ordinance as now written, if the Ordinance had been in effect prior to the date it was established.
11. **Use, Semipublic.** Use of land by a private, nonprofit organization to provide a public service is ordinarily open to persons outside the regular constituency of the organization.
12. **Use, Substandard.** Use within a land use district existing prior to the date of enactment of this Ordinance, which is permitted within the applicable land use district but does not meet the minimum lot area, length of water frontage, structural setbacks or other dimensional standards of this Ordinance.
13. **Use, Surface Water-oriented Commercial.** Use of land or buildings for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples.

V. Words and phrases beginning with the letter ‘V’

1. **Variance.** Any modification or variation of this Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of this Ordinance would cause unnecessary hardship.

W. Words and phrases beginning with the letter ‘W’

1. **Waiver.** For any new feedlot or expansion to an existing feedlot, with One Thousand (1000) animal units or less, that is within the required setback listed in Section VIII, Subdivision 401 (Feedlot Ordinance). The owner of a neighboring residence may, by signing a waiver, intentionally relinquish their right, claim or privilege to a public hearing and give their approval to the proposed project. All waivers shall be legally recorded at the County Recorder’s Office, by the feedlot proposer.
 - a. Said waiver may include conditions onto the proposed feedlot operation such as, but not limited to:
 - 1) Be notified when manure is to be applied.
 - 2) Request trees to be planted as barriers and screening.

- 3) May establish a specific distance manure application is to be from the building site.
2. **Waste Tire.** A pneumatic tire or solid tire for motor vehicles that has been discarded or no longer used for its original intended purpose because of wear, damage, or defect.
 3. **Waste Tire Collection Site.** A licensed Waste Facility use for the storage of Waste Tires prior to their transport to a Waste Tire Processing Facility.
 4. **Waste Tire Processing Facility.** A licensed Waste Facility used for the shredding, slicing, processing or manufacturing of useable materials for Waste Tires, and may include temporary storage activity. Processing does not include the retreading of Waste Tires.
 5. **Water Appropriation Permit.** For purposes of the Feedlot Ordinance, a permit required by the DNR for the appropriation of waters of the state, such as, but not limited to:
 - a. Domestic water uses serving more than Twenty Five (25) persons for general residential purposes.
 - c. Withdrawal of water for any use at a rate greater than Ten Thousand (10,000) gallons per day or more than one million gallons per year.
 6. **Waters of the State.** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
 7. **Water-Oriented Accessory Structures or Facility.** A small above ground structure or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.
 8. **Water Pollution.** The contamination of any waters of the state so as to create a nuisance or render such waters unclean, obnoxious or impure, so as to be actually or potentially harmful or detrimental or injurious to public health, safety and welfare, to domestic, commercial or industrial use, or to animals, birds, fish, or other aquatic life.

9. **Watershed Management or Flood Control Structure.** A dam, floodwall, wing dam, dike, diversion channel or an artificially deepened or widened stream channel following the same or approximately the same course as the natural channel, or any other structure for altering or regulating the natural flow condition of a river or stream. The term does not include pilings, retaining walls, gabion baskets, rock riprap, or other facilities intended primarily to prevent erosion and which must be authorized by permit from the Commissioner.
 10. **Water Supply Purpose.** Includes any uses of water for domestic, commercial, industrial or agricultural purposes.
 11. **Waterway.** A natural or constructed channel that is shaped or graded and is established with sustainable vegetative cover for the stable conveyance of run-off.
 12. **Wetland.** A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), and refers to land, which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, marsh or slough.
 13. **White Goods.** Major appliances. Major appliances include but are not limited to clothes washers and dryers, dishwashers, hot water heaters, garbage disposers, microwave ovens, trash compactors, conventional ovens, ranges and stoves, humidifiers and dehumidifiers, air conditioners, refrigerators and freezers.
 14. **Wildlife Management Areas.** Public lands for the purpose of retaming, creating, and managing upland and wetland habitat as defined by the National Resource Conservation Department. These areas are primarily owned and operated by DNR, US Fish and Wildlife and the Department of the Interior.
- X. Words and phrases beginning with the letter 'X'
- Y. Words and phrases beginning with the letter 'Y'
1. **Yard.** The space on the same lot with a building or other structure open and unobstructed from ground to sky.
 2. **Yard, Front.** The area extending across the front of a lot between the side yard lines and lying between the right-of-way line of a road and a building, structure or other facility.

3. **Yard, Rear.** The area extending across the rear of a lot between the side yard lines and lying between the rear lot line and a building, structure or other facility.
 4. **Yard, Riparian or Shoreland.** The area extending across a lot between the side yard lines and lying between the OHWL and a building, structure or other facility.
 5. **Yard, Side.** The area extending from the front lot line to the rear lot line or OHWL and lying between the side lot line and a building, structure or other facility.
 6. **Yard Waste.** Organic plant material collected from yards.
- Z. Words and phrases beginning with the letter 'Z'
1. **Zoning Administrator.** Lincoln County Environmental Office Administrator or designated staff.
 2. **Zoning District.** An area of the County for which the regulations governing height, area, use of structure, and premises are delineated by this Ordinance.

Subdivision 1800.0 Fee Schedule

The Board of Lincoln County Commissioners shall have the authority to adopt the necessary fee schedules for the implementation, enforcement and administration of the Comprehensive Development Ordinance for Lincoln County and said adoption may be done by resolution.

SECTION II

CLASSIFICATION OF ZONING DISTRICTS

SECTION II. CLASSIFICATION OF ZONING DISTRICTS

Subdivision 100. Zoning Districts

For the purpose of this Ordinance, Lincoln County is divided into classes of districts as follows:

- 101.0** Floodplain Management District (Section III)
- 102.0** Shore land Management District (Section IV)
- 103.0** Urban Expansion District (Section V)
- 104.0** Rural Preservation Management District (Section VI)
- 105.0** Businesses and Industry District (Section VII)

Subdivision 200. Maps

The following maps are all part of the Official Zoning Map.

- 201.0 Zoning Map.** The location and boundaries of the districts established by this Ordinance are set forth on the zoning map which is a part of this Ordinance; known as the "County Zoning Map". Said map consisting of all notations, references, and data shown thereon is hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Zoning Administrator to maintain the map and amendments shall be recorded on the zoning map within thirty (30) days after official publication of any amendment. The official zoning map shall be on file in the Zoning Administrator's office in the Lincoln County Courthouse.
- 202.0 Floodplain Zoning District Map.** The Flood Insurance Rate Map for Lincoln County, dated July 3, 1985, developed by the Federal Emergency Management Agency is adopted by reference as the Official Floodplain Zoning District Map and made a part of this Ordinance. This map was previously entitled the Flood Hazard Boundary Map dated June 10, 1977.
- 203.0 Shoreland Zoning District Map.**
 - A. The Protected Waters Inventory Map for Lincoln County, dated 1987, developed by the Minnesota Department of Natural Resources is adopted by reference as the Official Shoreland District Map and made a part of this Ordinance. Specific adopted Shoreland Zoning Maps are identified in Section IV, Subdivision 403.4 of this Ordinance. The official map shall be on file in Zoning Administrator's Office.

- B. The Public Waters Classification Map for Lincoln County is adopted by reference.

Subdivision 300. District Boundaries

The boundaries between districts are, unless otherwise indicated, the center lines of highways, roads, streets, alleys or railroad rights-of-way of such lines extended or lines parallel or perpendicular thereto, or section, half-section, quarter-section, quarter-quarter section or other fractional section lines of United States Public land surveys, as established by law. Where figures are shown on the zoning map between a road and a district boundary line, they indicate that the district boundary line runs parallel to the road center at a distance therefrom equivalent to the number of feet so indicated, unless otherwise indicated. Appeals from the Planning Commission or any administrative officer's determination of the exact location of district boundary lines shall be heard by the Board of Adjustment in accordance with the provisions of Section XVI of this Ordinance.

Subdivision 400. Permitted Use

No structures, building or tract of land shall be devoted to any use other than a use permitted in the zoning district in which the structure, or tract of land shall be located, with the following exceptions:

- 401.0** Conditional Uses allowed in accordance with the provisions of this Ordinance.
- 402.0** Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

Subdivision 500. Uses Not Provided For In Zoning District

Whenever a use is neither specifically permitted nor denied, in any zoning district, the use shall be considered prohibited. The County Board or the Planning Commission, on their own initiative or by request of a property owner, may conduct a study to determine if the use is acceptable ~~one~~; if so, what zoning district would be most appropriate and conditions and standards relating to development of the use. The County Board or Planning Commission, upon receipt of the study shall, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the county.

Subdivision 600. Future Detachment

Any land detached from an incorporated municipality and placed under the jurisdiction of this Ordinance in the future shall be placed in the Urban Expansion District until placed in another district by action of the Board of County Commissioners after recommendation of the County Planning Commission.

SECTION III

FLOOD PLAIN MANAGEMENT

SECTION III. FLOOD PLAIN MANAGEMENT

The purpose of this ordinance is to maintain Lincoln County's eligibility in the National Flood Insurance Program and to minimize potential losses to periodic flooding including loss of life, property, health and safety hazards, disruption of commerce and government services, extraordinary public expenditures for flood protection and relief, and the impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

Subdivision 100.0 Statutory Authorization, Findings of Fact and Purpose

101.0 Statutory Authorization. The Legislature of the State of Minnesota has, in Minnesota Statutes § Chapters 103F and Chapter 394, delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the County of Lincoln, Minnesota does ordain as follows:

102.0 Warning of Disclaimer of Liability. This Ordinance does not imply that areas outside of the flood plain district or land uses permitted within such districts will be free from flooding and flood damages. This Ordinance shall not create liability on the part of the County of Lincoln or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made thereunder.

Subdivision 200.0 General Provisions

201.0 Adoption of the Flood Insurance Rate Map. Refer to Section II, Subdivision 200.2.

202.0 Lands to Which the Floodplain Section Applies. This Section shall apply to all lands designated as flood plain within the jurisdiction of Lincoln County, Minnesota.

203.0 Interpretation. Scaling distances on the Official Flood Plain Zoning District Map shall determine the boundaries of the flood plain district. Where interpretation is needed for the exact location of the boundaries of the flood plain district, the Administrator shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, Lincoln County shall base its decision on available hydraulic/ hydrologic or site elevation survey data that demonstrates the likelihood the site is within or outside of the flood plain with the assistance from NRCS Staff.

Subdivision 300.0 Definitions

Refer to the definitions in Section I, Subdivision 1700.

Subdivision 400.0 Floodway District (FW)

401.0 Permitted Uses:

- 401.1 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- 401.2 Industrial-commercial loading areas, parking areas, and airport landing strips.
- 401.3 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 multi purpose recreational trails.
- 401.4 Residential lawns, gardens, parking areas.

402.0 Standards for Floodway Permitted Uses:

- 402.1 Have low flood damage potential.
- 402.2 Permissible in the underlying zoning district if one exists.
- 402.3 Not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials and equipment.

403.0 Conditional Uses:

- 403.1 Structures accessory to the uses listed in 401.0 above and the uses listed in 403.2 – 403.8 below.
- 403.2 Excavation and storage of sand, gravel, and other materials.
- 403.3 Marinas, boat rentals, docks, piers, wharves, and water control structures.
- 403.4 Railroads, streets, bridges, utility transmission lines, and pipelines.
- 403.5 Storage yards for equipment, machinery, or materials.
- 403.6 Placement of fill.
- 403.7 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 exceptions and provisions of Subdivision 903.0, of this Section.
- 403.8 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.

404.0 Standards for Floodway Conditional Uses:

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

404.2 All floodway Conditional Uses shall be subject to the procedures and standards contained in Subdivision 1000.4 of this Section.

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

404.4 Fill:

- A. Fill, dredge spoil and all similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable methods.
- B. Dredge spoil sites and sand and gravel operations are not allowed in the floodway unless a long-term site development plan is submitted that includes an erosion/sedimentation prevention element to the plan.
- C. As an alternative, and consistent with Subsection 404.4B immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials that 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 that assures the removal of the materials from the floodway based upon flood warning time available. The Conditional Use Permit must be title registered with the property in the office of the County Recorder.

404.5 Accessory Structure:

- A. Accessory structures shall not be designed for human habitation.
- B. Accessory structures, if permitted, shall be constructed and placed on the building site 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 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 five hundred (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 standards, as appropriate:
1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and,
 2. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood-proofed.

404.6 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.

404.7 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 Minn. Stat. § ~~Minnesota Statute~~, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the Regulatory Flood Plain shall not be allowed in the floodway.

404.8 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 of storage loss on both sides of a stream.

Subdivision 500.0 Flood Fringe District (FF)

501.1 Permitted Uses: Permitted Uses shall be those areas 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 Subdivision 502.0 and 505.0 of this Section.

502.0 Standards for Flood Fringe Permitted Uses:

- 502.1** All structures, including accessory structures, must be elevated on fill so that the lowest floor including the 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 elevations at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
- 502.2** As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally flood-proofed in accordance with Subdivision 404.5C of this Section.
- 502.3** 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 Subdivision 502.1 of this Section.
- 502.4** The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
- 502.5** The provisions of Subdivision 505.0 of this Section shall apply.

503.0 Conditional Uses:

- 503.1** Any structure that is not elevated on fill and is flood-proofed in accordance with ~~Section III~~, Subdivisions 502.1-502.4 above shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Subdivisions 504.4, 504.5, and 1004.0 of this Section.

504.0 Standards for Flood Fringe Conditional Uses:

- 504.1** Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:
- A. The enclosed area is above-grade on at least one (1) side of the structure;
 - B. It is designed to internally flood and is constructed of flood resistant materials and;
 - C. It is used solely for parking 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 time 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 floodwaters to equalize pressures, the bottom of all openings shall be no higher than one (1) 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 floodwaters.
 - 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.

504.2 Basements, as defined by 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 Subdivision 504.3 below.

504.3 All areas of 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 wall substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.

504.4 When at any time more than one thousand (1000) cubic yards of fill or other similar material is located on a parcel for 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.

504.5 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 easily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

504.6 The provisions of Subdivision 505.0 of this Section shall also apply to conditional uses.

505.0 **Standards for All Flood Fringe Uses:**

505.1 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.

505.2 Commercial Uses. Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of the regional flood.

505.3 Manufacturing and Industrial Uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Subdivision 505.2 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plan areas.

- 505.4** Fill shall be properly compacted and the slopes properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be required.
- 505.5** 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.
- 505.6** Standards for travel trailers and travel vehicles are contained in Subdivision 903.0 below.
- 505.7** 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 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.

Subdivision 600.0 General Flood Plain District

601.0 Permissible Uses:

- 601.1** The uses listed in Subdivision 401.0 of this Section shall be permitted uses.
- 601.2** All other uses are subject to the floodway/flood fringe evaluation criteria pursuant to Subdivision 602.0 below. Subdivision 400.0 of this Section shall apply if the proposed use is in the Floodway District and Subdivision 500.0 above shall apply if the proposed use is in the Flood Fringe District.

602.0 Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District:

- 602.1** 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 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 elevation 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 used 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 five hundred (500) feet in either direction from the proposed development.

602.2 The applicant shall be responsible to submit one (1) copy of the above information to a designated engineer or other expert person or agency for technical assistance 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 – 6020.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

- A.** 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 five-tenths (0.5) feet. A lesser stage increase than five-tenths (0.5) feet 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.

602.3 The 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 refer the matter back to the Administrator who shall process the permit application consistent with the applicable provisions of Subdivision 400.0 and 500.0 of this Section.

Subdivision 700.0 Subdivision

701.1 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 (2) 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 labeled on all required subdivision drawings and platting documents.

702.0 Floodway/Flood Fringe Determinations in the General Flood Plain District. In the General Flood District, applicants shall provide the information required in Subdivision 602.0 of this Section to determine the 100-year flood elevation, the Floodway and Flood Fringe boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

703.0 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.

Subdivision 800.0 Public Utilities, Railroads, Roads and Bridges

801.0 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.

802.0 Public Transportation Facilities. Railroad tracks, roads and bridges to be located within the flood plain shall comply with Subdivision 400.0 and 500.0 of this Section. 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.

803.0 On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided:

- A. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

- B. New or replacement on-site sewage treatment systems must be designed to minimize 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.

Subdivision 900.0 Manufactured Homes and Manufactured Home Parks and Placement Travel and Travel Vehicles.

- 901.0** New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Subdivision 700.0 of this Section.
- 902.0** The placement of new or replacement of manufactured homes in existing manufactured home parks or on individual lots of record located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Subdivision 500.0 of this Section. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Subdivision 505.1 above then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.
- 902.1** All manufactured home must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- 903.0** Travel trailers and travel vehicles that do not meet the exemption criteria specified in Subdivisions 903.1 of this Section shall be subject to the provisions of this Ordinance and as specifically spelled out in Subdivisions 903.2 and 903.3 of this Section.
- 903.1** Exemption – Travel trailers and travel vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed in Section 903.2 below and further they meet the following criteria:
 - A. Have current licenses required for highway use.
 - B. Are highway ready thus 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/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.

903.2 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.

903.3 Travel trailers and travel vehicles exempted in Subdivision 903.1 of this Section lose this exemption when development occurs on the parcel exceeding five hundred (\$500) 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 Subdivision 400.0 and 500.0 above.

903.4 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 it 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 Subdivision 505.1 of this Section. 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 Subdivision 1000.4 of this Section. 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 that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel 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 Subdivision 803.0 of this Section.

Subdivision 1000.0 Administration

1001.0 Zoning Administrator. An Administrator or other official designed by the Governing Body shall administer and enforce this Ordinance. If the Administrator finds a violation of the provisions of this Ordinance the Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Subdivision 1200.0 of this Section.

1002.0 Permit Requirements:

1002.1 Permit Required. A permit issued by the Administrator conforming with 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.

1002.2 Application of 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.

1002.3 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.

1002.4 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 thereafter 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.

1002.5 Construction and Use to be as Provided. 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 a violation of this Ordinance.

1002.6 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.

1002.7 Record of First Floor Elevation. The 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 Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

1003.0 Board of Adjustment.

1003.1 Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards of State law.

1003.2 Administrative Review. The Board of Adjustment 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.

1003.3 Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances 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 variance, the Board of Adjustment shall clearly identify in 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.

1003.4 Hearings: Upon filing the Board of Adjustment of an appeal from a decision of the Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

1003.5 Decisions: The Board of Adjustment shall arrive at a decision on such appeal or Variance within thirty (30) days. In passing upon an appeal, the Board of Adjustment may, so long as such action conforms with this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the 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 Variance, the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in Subdivision 1004.6, which are in conformity with the purposes of this Section. 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 Section punishable under Subdivision 1200.0.

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.

1003.6 Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in this Ordinance and also Minnesota Statutes.

1003.7 Flood Insurance Notice and Record Keeping. The Administrator shall notify the applicant for a variance that:

- A. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five (\$25) dollars for one hundred (\$100) dollars of insurance coverage and;
- B. 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. The County shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

1004.0 Conditional Use Application and Permit:

1004.1 Conditional Uses. The Lincoln County Planning Commission shall hear and decide applications for Conditional Use permissible under this Ordinance. Applications shall be submitted to the Administrator who shall forward the application to the Department of Natural Resources for consideration.

1004.2 Hearings. Upon filing with the Administrator an application for a Conditional Use Permit, the Lincoln County Planning Commission 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.

1004.3 Decisions. The Lincoln County Planning Commission shall make a decision on a Conditional Use within thirty (30) days. In granting a Conditional Use Permit the Lincoln County Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified in Subdivision 1004.6 of this Section which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made apart of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under ~~Section III,~~ Subdivision 1200.0 below. 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.

1004.4 Procedures. To be followed by the Lincoln County Planning Commission 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 Lincoln County Planning Commission for determining the suitability of the particular site for the purposed use:
 - 1. Plans in triplicate drawn to scale showing the nature, location, dimension, 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 (1) copy of the information described in Subsection A to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluation 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 Lincoln County Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

1004.5 Factors upon Which the Decision of the Lincoln County Planning Commission Shall Be Based. In passing upon Conditional Use Applications, the Lincoln County Planning Commission shall consider all relevant factors specified in other subdivision of this Section, and ;

- A. The danger of 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 floodplain management program for the area.
- J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- L. Such other factors which are relevant to the purposes of this Ordinance.

1004.6 Time for Action on Application. The Lincoln County Planning Commission shall act on an application in the manner described above within thirty (30) days from receiving the application, except that where additional information is required pursuant to, Subdivision 1004.4 of this Section. The Lincoln County Planning Commission shall render a written decision within thirty (30) days from the receipt of such additional information.

1004.7 Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Section, the Lincoln County Planning Commission 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.

Subdivision 1100.0 Nonconforming Uses.

1101.0 A land use, structure or the use of a structure which was lawful before the passage or amendment of this Section is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

1101.1 No such use shall be expanded, changed, enlarged or altered in a way which increases its non-conformity.

1101.2 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 through FP-4 flood proofing classifications) allowable in the State Building Code except as further restricted in 1101.3 below.

1101.3 The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) 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 County'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 fifty percent (50%) of the current market value of the structure, then the structure must meet the standards of Subdivision 400.0 or 500.0 of this Section for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

1101.4 If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building shall conform to this Section. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of twelve (12) months.

1101.5 If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Section. The applicable provisions for establishing new uses or new structures in Subdivisions 400.0, 500.0 and 600.00 above depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

Subdivision 1200.0 Penalties for Violation

1201.0 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.

1202.0 Nothing herein contained shall prevent Lincoln County from taking other lawful action to prevent or remedy any violation. Such actions may include but are not limited to:

1202.1 In responding to a suspected ordinance violation, the 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. 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.

1202.2 When an ordinance violation is either discovered by or brought to the attention of the Administrator, the Administrator shall immediately investigate the situation and document the nature and extent of the violation. 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.

1202.3 The 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 Administrator may order the construction or development halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Administrator may either:

- A. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or;
- B. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

1202.4 If the responsible party does not appropriately respond to the Administrator within the specified time, each additional day that lapses shall constitute an additional violation of this Section and shall be prosecuted accordingly. The 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.

Subdivision 1300.0 Amendments

The floodplain designation on the Official Zoning Map shall not be removed from the floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the 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.

1301.0 All amendments to this Section, 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 meet 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 ten (10) days written notice of all hearings to consider an amendment to this Section and said notice shall include a draft of the amendment or technical study under consideration.

SECTION IV

**SHORELAND
MANAGEMENT
DISTRICT(S)**

SECTION IV - SHORELAND MANAGEMENT DISTRICT(S)

The uncontrolled use of shorelands in Lincoln County, Minnesota affects the public health, safety and general welfare not only contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use, and development of the shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments 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 utilization of waters and related land resources. Lincoln County, Minnesota recognizes this responsibility.

Subdivision 100.0 Statutory Authorization

The Lincoln County Shoreland Management Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103G, Minnesota Regulations, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

Subdivision 200.0 General Provisions

201.0 Jurisdiction. The Shoreland Management District shall include the shorelands of all designated public waters in Lincoln County, Minnesota, excepting those within incorporated cities. The public waters in Lincoln County are identified on the official Lincoln County Public Waters Classification Map, and they are further identified in Subdivision 400.0 of this Section.

202.0 Enforcement. Enforcement of the provisions of this Section shall be as proscribed in Section XVI, Subdivision 1000.0

203.0 Interpretation. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

204.0 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.

205.0 Definitions. Refer to Section I, Subdivision 1700.

Subdivision 300.0 Administration

301.0 Land Use Permits Required:

- A. The construction of a building, addition to a building or accessory structure (including decks and signs) within the unincorporated areas of Lincoln County.
- B. The change of a use of a building, accessory structure, or land within the unincorporated areas of Lincoln County.
- C. The placement of fill or excavation of materials within the Flood Plain or Shoreland Management Districts.
- D. Prior to granting a Use Permit, the Administrator shall determine that the applicant has obtained all Necessary State and Federal Permits.
- E. A permit authorizing a new or addition to an existing structure shall stipulate that an identified nonconforming sewage system, as defined by Subdivision 703.0 of this Section shall be reconstructed or replaced in accordance with the provisions of this Ordinance.

302.0 Individual Sewage Treatment Systems Permits are required to be obtained prior to:

- A. Any installation, alteration, modification, expansion or reconstruction of an Individual Sewage Treatment System.
- B. Any construction of additional bedrooms to a dwelling.
- C. The installation of mechanical equipment that requires additional water usage and gray water disposal such as but not limited to; garbage disposals, dish washers, water softeners, etc.
- D. Any transfer of ownership of property.

303.0 Certificate of Zoning Compliance. The Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Subdivision 301.0 of this Section. This certificate will specify that the use of land conforms to the requirements of this Section. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section XV Subdivision 1000 of this Ordinance.

304.0 Variances.

304.1 Variances may only be granted in accordance with Minnesota Statutes, Chapter 394. A variance may not circumvent the general purposes and intent of this Ordinance. No variance may be granted that would allow any use prohibited in the zoning district in

which the property is located. Conditions may be imposed in the granting of a variance to insure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonably or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

304.2 The Board of Adjustment shall hear and decide requests for variances in accordance with the rules adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Subdivision 305.2 of this Section shall also include the Board of Adjustment's summary of the public record/ testimony and the findings of fact and conclusions that supported the issuance of the variances.

304.3 For existing developments, the application for variance must clearly demonstrate if a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

305.0: Notification to the Department of Natural Resources.

305.1 Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/ plats must include copies of the subdivision/plat.

305.2 A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten (10) days of final action.

305.3 All notices and official mailings to the Department of Natural Resources shall be sent to the address and person specified in writing by the Commissioner or his representative.

306.0 Violations, Penalties and Enforcement.

306.1 Violations. Failure to comply with any provision of this Section will constitute a violation of the Ordinance punishable as specified in Section XV Subdivision 1000.0 of this Ordinance.

Subdivision 400.0 Shoreland Classifications and Land Use Districts

Subdivision 401.0 General Provisions

401.1 Shoreland Management Jurisdiction. Except those areas within an incorporated city, the shorelands of the public waters designated herein are hereby designated as the shoreland management jurisdiction within Lincoln County. The requirements set forth in this Section shall govern the development of land and other activities within these areas. The classification of public waters and land use districts of the shoreland areas shall govern the use, alteration and development of these areas.

401.2 Application. The Shoreland Management Jurisdiction shall apply to all shorelands of the public waters identified and classified in Subdivision 402.0 of this Section, except those areas within an incorporated city. The regulations and requirements imposed by this Ordinance are in addition to those established by Section III (the Floodplain Management) when there is joint application. Under joint application of Sections III and IV the more restrictive shall apply.

401.3 Shoreland Boundaries. The shoreland boundaries described in this Section constitute the boundaries of the Shoreland Management Jurisdiction.

- A. The shoreland boundaries are established as the following distances from the Ordinary High Water Level of a lake, pond or flowage.
 - 1. All classes of Lakes. The shoreland boundary for all classes of lakes shall be one thousand (1000) feet from the Ordinary High Water Level of a lake, pond or flowage.
 - 2. All Classes of Rivers and Streams. The shoreland boundary for all classes of rivers and streams shall be three hundred (300) feet from the bank of the river or stream or the landward extent of any floodplain designated by ordinance, whichever is greater.
- B. The location of public waters and subsequent determination of shoreland boundaries listed by summary description in Subdivision 402.0 of this Section and graphically described on the official Lincoln County "Public Waters Classification Map" which is adopted with and hereby made a part of this Ordinance. As neither of these descriptions can adequately locate shoreland boundaries on the ground, the Administrator shall make on-site verifications of exact shoreland boundaries as necessary.
- C. Where the boundaries of different public waters classes overlap, the more restrictive public waters class shall be applied within the overlapping area.

402.0 Classification of Public Waters

402.1 General Provisions. This Section establishes the classification of all public waters in Lincoln County and establishes uniform provisions for each class of public waters.

402.2 Public Water Classes and Management Goals and Objectives. The classifications of public waters in Lincoln County shall consist of Agricultural River Segments, General Development Lakes, Natural Development Lakes, Recreational Development Lakes, and Tributary River Segments. The general description of each class and the specific waters are as follows:

A. **Agricultural River.** These river segments are located in well-roaded, intensively cultivated areas of the western and southern regions of the State. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities, and small forested areas. Residential development is not common, but some year-around residential use is occurring within commuting distance of major cities. The following are classified Agricultural Rivers:

<u>Stream Name</u>	<u>Beginning in</u>	<u>Ending in</u>
Yellow Medicine River (YMR)	Outlet of Shaokatan Lake in Sec. 23-111-46 and, omitting the public ditch that is an altered natural watercourse, also Center of Sec. 15-111-45	East section line of Sec. 1-111-46, Border of Lincoln & Lyon Counties
Lac Qui Parle River (LQPR)	Outlet of Hendricks Lake Sec. 18-112-46	Border of Lincoln and Yellow Medicine Counties

B. **General Development Lake.** These 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 are usually heavily developed around the shore. Second and third tiers of development are fairly common. The following are classified as General Development Lakes:

<u>Lake Identification No.</u>	<u>Lake Name</u>	<u>Township</u>	<u>Location</u>
41-35P	West Lake Stay	Lake Stay	Sec. 29-32, T111, R44
41-110P	Hendricks Lake	Hendricks	Sec. 18, 19; 13, 14, T112, R46; 47

C. **Natural Environment Lake.** These lakes are generally small, often shallow 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. The following are classified as Natural Environment Lakes:

<u>Lake Identification No.</u>	<u>Lake Name</u>	<u>Township</u>	<u>Location</u>
41-5P	unnamed	Hope	Sec. 5, T109, R44
41-21P	Dead Coon Lake	Lake Stay/Marshfield	T110 & 111, R44
41-22P	unnamed	LakeStay/Marshfield	Sec. 2, T110, R4 & Sec. 35, T111, R44
41-24P	Gislason Lake	Lake Stay	Sec. 1, T111, R44
41-29P	unnamed	Lake Stay	Sec. 11, T111, R44
41-40P	unnamed	Limestone	Sec. 29, 32, 33, T112, R 44
41-44P	Popowski Lake	Royal/Limestone	Sec. 7, 18, 12, 13, T112, R44 & 45

41-45P	Hawks Nest Lake	Royal/Limestone	Sec. 30, 31; 25, 26, T112 R44 & 45
41-47P	unnamed	Diamond Lake	Sec. 5, T110, R45
41-51P	Pickeral Lake	Diamond Lake	Sec. 22, 27, T110, R45
41-54P	Anderson Lake	Ash Lake	Sec. 6, 7, T111, R45
41-55P	North Ash Lake	Ash Lake	Sec. 8, 17, T111, R45
41-57P	South Ash Lake	Ash Lake	Sec. 17, T111, R45
41-58P	Curtis Lake	Ash Lake	Sec. 19, 30, T111, R45
41-62P	Oak Lake	Royal	Sec. 2, 3, T112 R45
41-63P	unnamed	Royal	Sec. 7, 8, 17, 18, T112, R45
41-65P	unnamed	Royal	Sec. 7, 8, 17, 18, T112, R45
41-67P	Perch Lake	Royal	Sec. 16, 17, T112, R45
41-70P	Drietz Lake	Royal	Sec. 23, 24, T112, R45
41-72P	unnamed	Royal	NE ¼, Sec. 31, T112, R45
41-73P	unnamed	Royal	SE ¼, Sec. 31, T112, R45
41-74P	unnamed	Royal	Sec. 31, 32, T112, R45
41-75P	unnamed	Marble	Sec. 7, T113, R45
41-76P	Prairie Dell Lake	Marble	NE ¼, Sec. 15, T113, R45
41-82P	Steep Bank Lake	Marble/Hendricks/Royal	Sec. 6; 1; 31; T112 & 113, R45 & 48
41-84P	Biggs Lake	Shaokatan	Sec. 4, T111, R46
41-91P	Weeks Lake	Shaokatan	Sec. 34, T111, R46
41-92P	unnamed	Hendricks	Sec. 13, T112, R46
41-94P	unnamed	Hendricks	Sec. 16, T112, R46
41-95P	Kvermmo Marsh	Hendricks	Sec. 36, T112, R46
41-96P	Widmark Marsh	Hendricks	Sec. 36, T112, R46
41-101P	Boone Slough	Hansonville	Sec. 20, 21, 28, 29, T113, R46
41-103P	unnamed	Hansonville	Sec. 23-26, T113, R46
41-104P	unnamed	Hansonville	Sec. 24, T113, R46
41-105P	unnamed	Hansonville	Sec. 25, 26, T113, R46
41-108P	East Twin Lake	Hansonville	SW ¼, Sec. 28, T113, R46
41-109P	unnamed	Hansonville	Sec. 3; 34, T113 & 114, R46
41-115P	unnamed	Hansonville	Sec. 30, T113, R46
41-116P	unnamed	Hansonville	Sec. 31, T113, R46
41-117P	unnamed	Ash Lake	Sec. 9, T111, R45
41-121P	unnamed	Hendricks	Sec. 18, T112, R46
41-127P	unnamed	Hansonville	Sec. 16, T113, R46
41-130P	unnamed	Lake Stay	Sec. 7, T111, R44
41-131P	unnamed	Diamond Lake	NE ¼, SW ¼, Sec. 17, T110, R45
41-132P	unnamed	Diamond Lake	Sec. 18, T110, R45
41-133P	unnamed	Drammen	Sec. 11, T110, R45
41-135P	unnamed	Ash Lake	Sec. 16, T111, R45
41-136P	unnamed	Ash Lake	Sec. 8, 17, T111, R45
41-137P	unnamed	Ash Lake	Sec. 7, T111, R45
41-138P	unnamed	Royal	Sec. 32, T112, R45
41-139P	unnamed	Hendricks	Sec. 26, T112, R46
41-140P	unnamed	Hendricks	SW ¼, NE ¼, Sec. 17, T112, R46
41-141P	unnamed	Marble	Sec. 9, T113, R45
41-142P	unnamed	Hansonville	Sec. 6, T113, R46
41-146P	unnamed	Diamond Lake	Sec. 34, T113, R45
87-116P	Victors Slough	Hansonville	Sec. 4, T113, R46

D. Recreational Development Lake. These 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 are often characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-around residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use. The following are classified as Recreational Development Lakes:

<u>Lake Identification No.</u>	<u>Lake Name</u>	<u>Township</u>	<u>Location</u>
41-34P	Lake Stay	Lake Stay	Sec. 29, 32, T111, R44
41-43P	Benton Lake	Marshfield/Diamond Lake/ Lake Benton	T109; 110, R44; 45

E. Tributary River Segments. Tributary River Segments consist of watercourses mapped in the Protected Water Inventory that have not been assigned one of the other river classes. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities. The following are classified as Tributary River Segments:

<u>Stream Name</u>	<u>Beginning in</u>	<u>Ending in</u>
Yellow Medicine River	Sec. 14, T111, R46	Sec. 12, T111, R46
Unnamed to YMR	Sec. 17, T111, R45 (Basin 57)	Sec. 4, T111, R45
Unnamed to YMR	Sec. 29, T111, R46	Sec. 28, T111, R46 (Basin 89)
Unnamed to YMR	Sec. 5, T112, R44	Sec. 28, T113, R44
Unnamed to YMR	Sec. 27, T113, R44	Sec. 14, T113, R44
North Branch YMR (NBYMR)	Sec. 2, T111, R46	Sec. 4, T113, R44
NBYMR	Sec. 3, T113, R44	Sec. 12, T113, R44
Unnamed to NBYMR	Sec. 21, T113, R45	Sec. 5, T113, R44
Unnamed to NBYMR	Sec. 25, T113, R45	Sec. 3, T113, R44
Unnamed to NBYMR	Sec. 19, T113, R44	Sec. 2, T113, R44
Unnamed to NBYMR	Sec. 29, T113, R44	Sec. 2, T113, R44
Unnamed to Unnamed	Sec. 21, T113, R44	Sec. 10, T113, R44
Unnamed to NBYMR	Sec. 8, T111, R46	Sec. 4, T111, R46 (Basin 84)
Unnamed to NBYMR	Sec. 16, T111, R46	Sec. 4, T111, R46 (Basin 84)
Unnamed Tributary	Sec. 34, T113, R44	Sec. 24, T113, R44
Unnamed to Unnamed	Sec. 3, T13, R44	Sec. 24, T113, R44
Unnamed Tributary	Sec. 35, T113, R44	Sec. 24, T113, R44
Unnamed Tributary	Sec. 9, T112, R44	Sec. 25, T113, R44
Unnamed Tributary	Sec. 15, T112, R44	Sec. 1, T112, R44
Unnamed Tributary	Sec. 14, T112, R44	Sec. 12, T112, R44
Unnamed Tributary	Sec. 34, T112, R44	Sec. 24, T112, R44
Unnamed Tributary	Sec. 28, T112, R44	Sec. 25, T112, R44
Unnamed Tributary	Sec. 10, T113, R45	Sec. 6, T113, R44
Unnamed Tributary	Sec. 9, T113, R45 (Basin 141)	Sec. 1, T113, R45
Unnamed to Lac Qui Parle River (LQPR)	Sec. 18, T113, R45	Sec. 18, T113, R45
Unnamed to LQPR	Sec. 16, T112, R46	Sec. 3, T112, R46
South Fork LQPR (SFLQPR)	Sec. 7, T113, R46	Sec. 6, T113, R45
Unnamed to SFLQPR	Sec. 21, T113, R46	Sec. 16, T113, R46
Unnamed to SFLQPR	Sec. 19, T113, R46	Sec. 8, T113, R46
South Branch YMR (SBYMR)	Sec. 3, T110, R46	Sec. 27, T111, R45
SBYMR	Sec. 23, T111, R45	Sec. 1, T111, R45
SBYMR	Sec. 4, T111, R44	Sec. 12, T111, R44
Unnamed to SBYMR	Sec. 36, T11, R46	Sec. 34, T111, R45
Unnamed Tributary	Sec. 18, T111, R45	Sec. 20, T111, R45
Unnamed Tributary	Sec. 1, T110, R45	Sec. 33, T111, R44
Unnamed Tributary	Sec. 7, T110, R46	Sec. 25, T111, R47
Unnamed Tributary	Sec. 7, T110, R46	Sec. 1, T110, R47
Norwegian Creek (NC)	Sec. 2, T110, R46	Sec. 33, T110, R45 (Basin 43)
Unnamed to NC	Sec. 25, T110, R46	Sec. 18, T110, R45
Coon Creek (CC)	Sec. 26, T110, R45 (Basin 43)	Sec. 23, T110, R45
CC	Sec. 9, T110, R44	Sec. 36, T111, R44
Unnamed to CC	Sec. 21, T110, R44	Sec. 22, T110, R44
Medary Creek (MC)	Sec. 2, T109, R46	Sec. 13, T109, R47
Unnamed to MC	Sec. 24, T110, R47	Sec. 18, T109, R46
Unnamed to MC	Sec. 16, T110, R46	Sec. 3, T09, R46
Spring Creek	Sec. 13, T109, R46	Sec. 36, T109, R47
Willow Creek	Sec. 22, T109, R46	Sec. 33, T109, R46
Unnamed Tributary	Sec. 26, T109, R46	Sec. 34, T109, R46
Unnamed Tributary	Sec. 23, T109, R46	Sec. 35, T109, R46
Unnamed Tributary	Sec. 25, T109, R46	Sec. 36, T109, R46
Flandreau Creek (FC)	Sec. 19, T109, R45	Sec. 36, T109, R46
Unnamed to FC	Sec. 29, T109, R45	Sec. 31, T109, R45
Unnamed Tributary	Sec. 28, T109, R45	Sec. 34, T109, R45
Unnamed to Redwood River	Sec. 36, T109, R45	Sec. 13, T109, R44
Unnamed to Unnamed	Sec. 14, T109, R45	Sec. 29, T109, R44
Unnamed to Unnamed	Sec. 31, T109, R45	Sec. 20, T109, R44

Unnamed to Unnamed
Unnamed to Redwood River
Unnamed to Unnamed

Sec. 32, T109, R45
Sec. 24, T109, R44
Sec. 23, T109, R44

Sec. 29, T109, R44
Sec. 24, T109, R44
Sec. 32, T109, R44

402.3 Public Waters Classification Map. The public waters listed in Subdivision 402.2 above are shown in their approximate location on the official “Public Waters Classification Map” for Lincoln County. The official Public Waters Classification Map is on file in the NRCS office. The official “Public Waters Classification Map” shall be maintained in a current condition by noting any changes in classification made by official action of the Commissioner and the County Board. The location of public waters and subsequent determination of county shoreland jurisdiction from the “Public Waters Classification Map” is approximate and shall require on-site verification. Subdivision 402.2, the “Public Waters Classification Map” and on-site verification are all used to identify the public waters and their classification, and to verify the OHWL and shoreland boundary.

402.4 Shoreland Classification. The classification of public waters and adjacent shorelands of Lincoln County are consistent with the criteria found in Minnesota Regulations, part 6120.3300 and the 1984 Protected Waters Inventory Map for Lincoln County, Minnesota. The Lake Identification numbers used are as listed in the “Division of Waters, Soils & Minerals Bulletin No. 25”.

403.0 Land Use Districts

403.1 Criteria for Designation. The land use districts established by this Ordinance and the delineation of land use district boundaries on the Official Zoning Maps shall be consistent with the goals, policies and objectives of existing Lincoln County plans and the following criteria, considerations and objectives:

- A. Preservation of natural resources.
- B. Present ownership and development of shoreland areas.
- C. Shoreland soil types and their engineering capabilities.
- D. Topographic characteristics.
- E. Vegetative cover.
- F. In-water physical characteristics, values and constraints.
- G. Recreational use of the surface water.
- H. Road and service center accessibility.
- I. Socioeconomic development needs and plans as they involve water and related land resources.

- J. The land requirements of industry and commerce which, by their nature, require location in shoreland areas.
- K. The necessity to preserve and restore certain areas having significant historical or ecological value.

403.2 General Considerations. The development of shorelands of public waters shall be controlled by means of land use zoning districts which are designated to be compatible with the classes of public waters established in Subdivision 402.2 of this Section. The land use zoning districts in the Shoreland Management Jurisdiction have been established to provide for:

- A. The management of areas unsuitable for development due to wet soils, steep slopes, flooding, inadequate drainage, severe erosion potential, presence of significant historic sites, or any other feature likely to be harmful to the health, safety or welfare of the residents of the County.
- B. The reservation of areas suitable for residential development from encroachment by commercial and industrial uses.
- C. The centralization of service facilities for residential areas and enhancement of economic growth for those areas suitable for limited commercial development.
- D. The management of areas for commercial and industrial uses which, by their nature, require location in shoreland areas.
- E. The protection of valuable agricultural land from conversion to other uses.
- F. The preservation and enhancement of quality water-based recreation use of public waters including provisions for public access.

403.3 Establishment of Shoreland Zoning Districts. The Shoreland Zoning Districts in this Section have been established in accordance with their compatibility with public waters classifications, and the criteria in Minnesota Regulation 6120.3200, Sub. 3. The shorelands of Lincoln County, Minnesota, are hereby divided into the following districts.

- A. Special Protection District.
- B. Residential District
- C. General Use District
- D. Water-Oriented Commercial District.

403.4 Official Shoreland Zoning Maps. The official Shoreland Zoning Maps of Lincoln County, Minnesota, are hereby made a part of this Ordinance and designated as “Lincoln

County Shoreland Zoning Maps 403.4.A through 403.4.O". The official Lincoln County Shoreland Zoning Maps are on file in the County Environmental office.

A. The following are official Lincoln County Shoreland Zoning Maps.

1. Shoreland Zoning Map 403.4.1.A for Alta Vista Township
2. Shoreland Zoning Map 403.4.1.B for Ash Lake Township.
3. Shoreland Zoning Map 403.4.1.C for Diamond Lake Township.
4. Shoreland Zoning Map 403.4.1.D for Drammen Township.
5. Shoreland Zoning Map 403.4.1.E for Hansonville Township
6. Shoreland Zoning Map 403.4.1.F for Hendricks Township.
7. Shoreland Zoning Map 403.4.1.G for Hope Township.
8. Shoreland Zoning Map 403.4.1.H for Lake Benton Township.
9. Shoreland Zoning Map 403.4.1.I for Lake Stay Township.
10. Shoreland Zoning Map 403.4.1.J for Limestone Township.
11. Shoreland Zoning Map 403.4.1.K for Marble Township.
12. Shoreland Zoning Map 403.4.1.L for Marshfield Township.
13. Shoreland Zoning Map 403.4.1.M for Royal Township.
14. Shoreland Zoning Map 403.4.1.N for Shaokatan Township.
15. Shoreland Zoning Map 403.4.1.O for Verdi Township.

B. Map 403.4.1.C. for Diamond Lake Township is supplemented and clarified as follows: All shoreland areas in Diamond Lake Township are zoned Special Protection Districts except the following described areas.

1. The following areas are zoned Residential Districts.
 - a. Don-Ja-Lei Subdivision located in the N1/2 of the SE ¼ and Government Lots 5 and 6 and 7 in Section 27 and Governments Lots 1 and 2 in Section 34 of T110N, R45W.
 - b. Bay View Subdivision in Section 36, T110N, R45W.

- c. Benton Cove Subdivision located in Government Lot 1, Section 35, T110N, R45W.
 - d. Benton Shores Estates First Addition located in Governments Lots 5,6 and 7, Section 34 and Government Lot 4, Section 35, T110N, R45W.

- C. Map 403.4.1.F for Hendricks Township is supplemented and clarified as follows: All shoreland areas in Hendricks Township are zoned Special Protection Districts except the following described areas.
 - 1. The following areas are zoned Residential Districts.
 - a. Jorgensen’s Beach Subdivision in Government Lot 6, Section 19, T112N, R46W.
 - b. The area bordering the north shore of Lake Hendricks from the OHWL to the centerline of County State Aid Highway No. 17 and from the West city limits of the City of Hendricks west to the state line.

- D. Map 403.4.1.H. for Lake Benton Township is supplemented and clarified as follows: All shoreland areas in Lake Benton Township are zoned Special Protection Districts except the following described areas.
 - 1. The following areas are zoned Residential Districts.
 - a. Benton Shores Estates Second Addition located in Government Lots 2, 3 and 4, Section 3, T109N, R45W.
 - b. Benton Shores Estates Third Addition located in Government lots 2, 3 and 4 Section 3, T109N, R45W.
 - 2. The following areas are zoned Water Oriented-Commercial Districts.
 - a. A triangular area bordered on the west and southeast by the city limits of the City of Lake Benton and bordered on the north by a line projected west from the east-west city limit line to its intersection with the west section line of Section 4 at a point approximately seven hundred ninety-two (792) feet south of the north line of Government Lot 6, located in Section 4, T109N, R45W.

- E. Map 403.4.1.L. for Marshfield Township is supplemented and clarified as follows: All shoreland areas in Marshfield Township are zoned Special Protection Districts except the following described areas:

1. The following areas are zoned Residential Districts.
 - a. Marshfield Cove Subdivision in Governments Lots 1 and 2, Section 30, T110N, R44W.
 - b. Stoney Point Subdivision in Marshfield Township Section 31, T110N, R44W.

F. Map 403.4.1.N. for Shaokatan Township is supplemented and clarified as follows: All shoreland areas in Shaokatan Township are zoned Special Protection Districts except the following described areas.

1. The following areas are zoned Residential Districts.
 - a. Nielsen Estates Subdivision in Government Lots 1 and 2, Section 27, T111N, R46W.
 - b. Those parcels within two hundred twelve (212) feet of the OHWL located in the west 835 feet of Government Lot 6, Section 24, T111N, R46W.
 - c. Suhr Addition located in Government Lots 1 and 2, Section 24, T111N, R46W.
 - d. Those parcels within two hundred seventy (270) feet of the OHWL located between the east line of the Suhr Addition and the east line of Government Lot 2 all located in Government Lots 2 and 3, Section 24, T111N, R46W.
 - e. Crain's First, Second and Third Additions in Government Lots 2,3 and 4, Section 23, T111N, R46W.
 - f. The S one-half (½) of Government Lot 4, Section 22 T111N, R46W.
 - g. The north four hundred twenty-three and seven tenths (423.7) feet of Government Lot 5, Section 22 T111N, R46W.
 - h. Those parcels within three hundred fifty (350) feet of the OHWL located in Government Lot 1, Section 22, T111N, R46W.
 - i. The east one hundred fifty (150) feet of Government Lot 2, Section 22, T111N, R46W.

- j. Julia Subdivision First Addition NE1/4 of the SE1/4 of Section 24 and Government Lot 4 in Section 24, T111N, R46W And that part of NE. Fr ¼ Section 24, T111N, R46W.
- k. Julia Subdivision Second Addition NE1/4 of the SE1/4 of Section 24 and Government Lot 4 in Section 24, T111N, R46W And that part of NE. Fr ¼ Section 24, T111N, R46W.
- i. Andersen’s First Addition Government lots 2 Section 23, T111N, R46W
- j. Andersen’s Second addition Government lots 2, 3, 4 and part of the NE1/4 of the NW1/4 all in Section 23, T111N, R46W

404.0 Zoning District Descriptions

404.1 Special Protection District. The Special Protection District has three primary purposes. The first is to limit and properly manage development in areas that are generally unsuitable for development or use due to flooding, erosion, limiting soil conditions, steep slopes, or other physical constraints. The second is to manage and preserve areas with special historical, natural or biological characteristics. The third is to protect valuable agricultural lands and promote sound agricultural practices within the purview of this Section. The following are Special Protection District uses.

A. Permitted Uses.

- 1. All general agriculture, pasture and cropland uses excluding structures and feedlots, in all lake and river classes.
- 2. Forest Management, in all lake and river classes.
- 3. Sensitive Resources Management uses such as nature areas, hiking and riding trails, wildlife preserves and designated official wetlands, in all lake and river classes.
- 4. Essential Services, in all lake and river classes.

B. Conditional Uses.

- 1. Utilities not considered Essential Services.
- 2. New roads and railroad lines. Existing roads and railroad lines may be maintained, improved and expanded without a Conditional Use Permit.

3. Non-residential structures used solely in conjunction with raising wild game animal or fish provided the structures are of a design approved by the Board of Adjustment as being compatible with other allowable uses in the District.
4. Agricultural structures provided that they are located on an existing farmstead and are not located any closer to the OHWL than any structure existing on the farmstead at the time of adoption of this Ordinance.
5. Single family dwellings including farm, and non-farm dwellings and mobile homes.
6. Parks and historic sites.
7. Extractive Uses.
8. Public and semipublic uses.

404.2 Residential District. A Residential district is primarily intended to allow low to medium density residential uses on land suitable for such uses. It is also intended to prevent establishment of commercial, industrial and other uses in those areas which 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. The following are the Residential District uses.

- A. Permitted uses for all lake and river classes unless otherwise noted.
 1. Single family dwellings except mobile homes.
 2. Forest Management.
 3. Semipublic uses on Tributary River Segments only.
 4. Parks and Historic Sites on Tributary River Segments only.
 5. Duplex, Triplex and Quad dwellings on General Development and Recreational Development Lakes only.
- B. Conditional uses for all lakes and river classes unless otherwise noted.
 1. Mobile Homes.
 2. Mobile home parks meeting the following minimum standards and requirements.

- a. Site plans for mobile home parks will be approved by the County Board.
 - b. Mobile home parks shall be licensed by and be in conformance with the standards prescribed by the Minnesota Department of Health and the provisions of this Ordinance, whichever are more restrictive.
 - c. Each mobile home shall meet the shoreland and road setback provisions prescribed in this Ordinance.
 - d. There shall be a least twenty (20) feet between adjacent mobile homes, including any attachments.
 - e. Each mobile home site lot shall be at least four thousand (4,000) square feet in area.
 - f. A centralized sewage treatment facility which meets the standards, criteria, rules and regulations of the Minnesota Department of Health, and the Pollution Control Agency shall be installed, or individual sewage treatment systems may be used if every mobile home meets the lot size and setback requirements of this Ordinance.
 - g. Adequate vegetative screening shall be installed and maintained for the mobile home park consistent with the provisions of this Ordinance.
3. Recreational Camping Vehicle Areas meeting the requirements of the Minnesota Department of Health.
 4. Semipublic uses on all lakes classes and Agricultural River Segments only.
 5. Parks and Historic Sites on all lake classes and Agricultural River Segments only.
 6. Extractive uses.
 7. Duplex, Triplex and Quad Dwellings on Natural Environment Lakes and all river classes only.

404.3 General Use District. A General Use District is intended to be used only for lands already developed or suitable for development with concentrated urban, particularly commercial land uses. The following are General Use District uses.

- A. Permitted uses for all lake and river classes unless otherwise noted.
 - 1. Forest Management.
 - 2. Public and semipublic uses on General Development and Recreational Development Lakes only.
 - 3. Commercial uses on General Development and Recreational Development Lakes only.

- B. Conditional uses for all lake and river classes unless otherwise noted.
 - 1. Extractive uses.
 - 2. Parks and Historic sites.
 - 3. Commercial uses on Natural Environment Lakes, and all other river classes only.
 - 4. Industrial uses on General Development and Recreational Development Lakes, and Tributary River Segments only.
 - 5. Public and Semipublic uses on Natural Environment Lakes and all river classes only.

- C. The following uses are specifically not permitted.
 - 1. Industrial uses on Natural Environment Lakes and Agricultural River Segments.

Subdivision 500.0 Zoning Standards

501.0: Lot area and width standards

501.1 Purpose. To manage the effects of shoreland and water surface use, to prevent pollution of surface and ground waters of the state, to provide ample space on lots for sewage treatment systems, to minimize flood damages, to maintain property values, to maintain historic values of significant historic sites, and to maintain natural characteristics of shoreland and adjacent water areas; this Section shall regulate lot sizes, placement of structures, alterations of shoreland areas, and the use and development of shorelands.

501.2 Residential Lot Size. All single, duplex, triplex and quad dwelling lots created after the effective date of this Section shall meet or exceed the lot area and dimension standards in Section IV - Table I and other provisions of this Section. Unless specifically stated otherwise, the lot sizes shown in Table I shall apply to uses other than residential.

- A. Only land above the Ordinary High Water Level of public waters shall be used to meet lot area standards, and lot width standards must be met at both the OHWL and the Riparian Setback. The sewered lot area dimensions in Section IV - Table I shall only be used if publicly owned sewer system is available to and in fact services the property.

**Shoreland
Lot Area and Width Standards**

Note: Area is in square feet and width is in feet

Unsewered Lakes:

Natural Environment Lakes:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	80,000	200	80,000	200
Duplex	120,000	300	120,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

Recreational Development Lakes:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
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

General Development Lakes:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	100	40,000	150
Duplex	40,000	185	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

Sewered Lakes:

Natural Environment Lakes:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

Recreational Development Lakes:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
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

General Development Lakes:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

Agricultural and Tributary Rivers: Lot Width (in feet) only with no minimum lot size.

	Agricultural	Tributary	
	-----	<u>No Sewer</u>	<u>Sewer</u>
Single	150	100	75
Duplex	225	150	115
Triplex	300	200	150
Quad	375	250	190

B. Subdivisions of duplex, triplex and quad dwelling lots on Natural Environment Lakes must meet the following supplemental standards.

1. Each building must be set back at least two hundred (200) feet from the OHWL.
2. Each building must have common sewage treatment and water systems serving all dwelling units in the building.
3. Watercraft docking facilities for each lot must be centralized in one (1) location and serve all dwelling units in the building.
4. No more than twenty-five percent (25%) of a lake's shoreline may be developed as duplex, triplex or quad developments.

C. One (1) guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions if the following criteria are also met.

1. For lots exceeding the minimum lot dimensions of a duplex lot, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit.
 2. A guest cottage must not cover more than seven hundred (700) square feet of land surface and must not exceed fifteen (15) feet in height.
 3. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by topography, increased setbacks or color, and/or vegetative leaf-on conditions.
- D. A farm dwelling shall be considered the principal structure on a farmstead provided it is occupied. If there is no occupied farm dwelling, the Administrator shall determine the principal structure on the farmstead. All structures other than the principal structure shall be considered accessory structures.
- E. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within a subdivision are permissible and must meet or exceed the following standards.
1. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
 2. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percentage)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

3. Controlled access lots must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided access rights on the lot.
4. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot(s) and

what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They may also include other outdoor recreational activities which do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of nonsignificant conflict activities including swimming, sunbathing or picnicking. The covenants must also limit the total number of watercraft allowed to be continuously moored, docked or stored over water and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

502.0 Placement, Design and Height of Structures

502.1 Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Structures shall be located as follows:

- A. Setbacks (in feet) from the Ordinary High Water Level for Structures and On-site Sewage Systems.

<u>Classes of Public Waters</u>	<u>Setbacks in Feet</u>		<u>Sewage Treatment System</u>
	<u>Unsewered</u>	<u>Sewered</u>	
Natural Environment Lake	150	150	150
Recreational Development Lake	100	75	75
General Development Lake	75	50	50
Agricultural River	100	50	75
Tributary River	100	50	75

- B. One (1) water-oriented accessory structure designed in accordance with Subdivision 502.2 of this Section may be located on a lot, and shall be set back a minimum of ten (10) feet from the OHWL.
- C. Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the public water classifications:

<u>Structural Setback From:</u>	<u>Setback (in Feet)</u>
Top of Bluff	30
Unplatted Cemetery	50

Right of Way line of Major Streets	50
Right of Way line of Collector Streets	30
Right of Way line of Local Streets	20
Centerline of Private Roads	40
Side Yard Line	10

- D. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.
- E. Uses Without Water-oriented Needs. Uses without water-oriented needs shall either be located on nonriparian lots or parcels; or if located on riparian lots or parcels they must be set back double the normal residential Riparian setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

502.2 Design Criteria For Structures.

- A. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
 1. For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level (DNR) or three (3) feet above the ordinary high water level, whichever is higher.
 2. For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three (3) feet above the ordinary high water level or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three (3) approaches, technical evaluations must be done by qualified engineer or hydrologist consistent with parts Minnesota Rules 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one (1) approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
 3. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this Subdivision, if the structure is constructed of flood-resistant materials to the elevation, electrical and

mechanical equipment are 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.

B. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setbacks in Subdivision 502.1 of this Section if this water-oriented accessory structure complies with the following provisions:

1. The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks must not exceed eight (8) feet above grade at any point;
2. The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet;
3. 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;
4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.
5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
6. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to four hundred (400) square feet provided the maximum width of structure is twenty (20) feet as measured parallel to the configuration of the shoreline.

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

1. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties and planned unit developments;
2. Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square

feet may be used for commercial properties, public open-space recreational properties and planned unit developments.

3. Canopies or roofs are not allowed on stairways, lifts or landings;
 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;
 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
 6. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore area, provided that the dimensional and performance standards of this Subdivision are compiled with in addition~~al~~ to the requirements of Minnesota Regulations, Chapter 1340.
- D. 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.
- E. Steep slopes. The Administrator shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

502.3 Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures shall not exceed twenty-five (25) feet in height.

503.0 Shoreland Alterations

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat.

503.1 Vegetation Alterations. The removal of vegetation is restricted to prevent erosion into public waters, to consume nutrients in the soil, and to preserve shoreland aesthetics.

- A. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by

Subdivision 508.0 of this Ordinance are exempt from the vegetation alteration standards that follow.

- B. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Subdivision 506.2 and 506.3 below, respectively, is allowed subject to the following standards.
 - 1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
 - 2. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - a. the screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced:
 - b. along rivers, existing shading of water surfaces is preserved; and
 - c. the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased or pose safety hazards.

503.2 Topographic Alterations/Grading and Filling.

- A. Grading, filling and excavations necessary for the construction of structures, sewage treatment system, ground source heat pumps and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.
- B. Public roads and parking areas are regulated by Subdivision 504.0 of this Section.
- C. A grading and filling permit shall be required for:
 - 1. The movement of more than ten (10) cubic yards of material on steep slopes and shore and bluff impact zones; and

2. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- D. No permit for work in wetlands shall be approved until permits, reviews or necessary approvals by other agencies are completed. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivisions approvals.
1. Grading or filling in any type 2,3,4,5,6,7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland: sediment and pollutant trapping and retention; storage of surface runoff to prevent or reduce flood damage; fish and wildlife habitat; recreational use; shoreline or bank stabilization; and noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
 2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
 3. Mulches of similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.
 4. Methods to minimize soils erosion and to trap sediments before they reach any surface water feature must be used;
 5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the Soil Conservation Services;
 6. Fill or excavated material must not be placed in a manner that creates an unstable slope;
 7. Plans to place, fill or excavate material on steep slopes must be reviewed by qualified professional for continued slope stability and must not create finished slopes of thirty percent (30%) or greater.
 8. Fill or excavated material shall not be placed in bluff impact zones;
 9. Any alterations below the Ordinary High Water Level of public waters must first be authorized by the Commissioner under Minn. Stat.

§103g.245, and shall require a permit from the Zoning Administrator before construction begins;

10. Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
 11. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to the one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
- E. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, shall be treated as a conditional use and require a conditional use permit. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

504.0 Placement and Design of Roads, Driveways and Parking Areas

504.1 General. Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography for maximum screening from public waters. Documentation shall be provided by a qualified individual and/or the Lincoln County Highway Department Engineer that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field technical guides of the SCS or other applicable technical materials.

504.2 Placement. Roads, driveways, and parking areas shall meet structure setbacks and not be placed within bluff or shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist they may be placed within these areas if designed to minimize adverse impact.

504.3 Within Shore Impact Zones. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided vegetative screening and erosion control conditions of this Ordinance are met. For private facilities, the grading and filling provisions of Subdivision 503 shall be met.

504.4 Existing Public Roads. Existing public roads under the control of federal, state or local units of government may be maintained and improved without a permit.

505.0 Stormwater Management

505.1 General Standards. The following stormwater management standards shall apply.

- A. When possible, existing natural drainageways, wetlands and vegetated soil surfaces shall be used to convey, store, filter and retain stormwater runoff before discharge into public waters.
- B. Development shall be planned and conducted to minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible, and facilities or methods used to retain sediment on the site.
- C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural drainage features; various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference shall be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials or facilities.

505.2 Specific Standards.

- A. Impervious surface coverage of lots shall not exceed twenty-five percent (25%) of the lot area.
- B. When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with Soil Conservation Service technical guides.
- C. New constructed stormwater outfalls to public waters must provide for filtering and settling of suspended solids and skimming of surface debris before discharge.

506.0 Special Provisions for Commercial, Industrial, Public, Semipublic, Agriculture, Forestry and Extractive Uses.

506.1 Standards for Commercial, Industrial, Public and Semipublic Uses.

- A. Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters provided they meet standards and provisions of this Ordinance.
 - 1. In addition to meeting impervious coverage limits, setbacks and other zoning standards of this Ordinance, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures.
 - 2. Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions to navigation and to be the minimum size necessary to meet the need.

3. Uses which depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following standards.
 - a. Permitted Signs.
 - i. No advertising signs or supporting facilities for signs shall be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.
 - ii. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands or prices, shall not be higher than ten (10) feet above the ground, and shall not exceed thirty-two (32) square feet. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination across public waters.
 - iii. Other outside lighting may be located within the shore impact zone or over public water if used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude the use of navigational lights.
 - b. Prohibited Signs.
 - i. Those which interfere with visibility of drivers or obstruct traffic signs.
 - ii. Those which are illuminated by flashing light or by any light directed toward a neighboring residence or toward the water, except emergency or warning signs.
 - iii. Those which include any animated parts.
 - iv. Those which are mounted on a dock, boat house ~~or~~ of float.
 - v. Advertising signs or supporting facilities for signs shall not be placed in or over public waters.
- B. Uses without water-oriented needs shall be located on lots or parcels without public waters frontage, or they shall have double the riparian setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

506.2 Agricultural Use Standards.

- A. General cultivation farming, grazing, horticultural nurseries and crops, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in the permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the Lincoln County Soil and Water Conservation District and the United States Soil Conservation Service. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the Ordinary High Water Level.
- B. Animal feedlots shall meet the following standards:
 - 1. New feedlots shall not be located in the shoreland of any river class or within bluff impact zones, and shall have a three hundred (300) feet minimum riparian setback for all lake classes.
 - 2. Modifications or expansions to existing feedlot(s) located within a bluff impact zone, shoreland of any river class or within three hundred (300) feet of any lake class is allowed if they do not further encroach into the riparian setback or bluff impact zone.
- C. Existing farmsteads may be maintained and expanded provided the setback requirements of this Section are met; and any expansion, except installation of a windbreak or shelterbelt, shall be no closer to the OHWL than the nearest existing structure or three hundred (300) feet whichever is less. New structures shall meet the setback requirements of Subdivision 502.0 of this Section, and there shall be no minimum lot size. The entire farmstead shall be considered the lot.

506.3 Forest Management Standards. The harvesting of timber and associated reforestation shall be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of the Water Quality in Forest Management “Best Management Practices in Minnesota”.

506.4 Extractive Use Standards.

- A. Site Development and Restoration Plan. An Extractive Use Site Development and Restoration Plan shall be developed, approved and followed over the course of operation of the site. The plan shall address dust, noise, possible pollution discharges, hours and duration of operation, and anticipated vegetation and topographic alterations and identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion and shall clearly explain how the site will be rehabilitated after extractive activities end.
- B. Setbacks for Processing Machinery. Processing machinery shall be located consistent with setbacks standards for structures in this Section.

507.0 Projections into Required Open Space. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for:

507.1 Ordinary Projections. The ordinary projection of eaves, sills, belt courses, open for enclosed fire escapes, and ornamental features may be permitted, but they shall not exceed twenty-four (24) inches into any required setback.

507.2 Patios and Terraces. An open, uncovered patio or terrace may extend not more than ten (10) feet into any required yard provided that it is no closer than five (5) feet from any property line.

508.0 Corner Visibility. On a corner lot in any district, no planting, structure, sign, fence, wall or obstruction to vision between the height of three (3) feet and eight (8) feet measured from the center line of the street shall be placed or maintained within the triangular area formed by the intersection of the road right-of-way lines and a straight line connecting points on said right-of-way line each of which is thirty-five (35) feet from the point of intersection.

509.0: Group Projects. In the case of two (2) or more buildings constructed or to be constructed on a parcel of at least two (2) acres not subdivided into customary streets and lots and which will not be so subdivided, and the application of the terms of this Section may be varied by the Board of Adjustment in a manner that will be in harmony with the character of the public water and district.

509.1 Nonfarm Uses.

- A. Limited to those permitted within the zoning district in which the project is located.
- B. The overall intensity of land use is no higher, and the standard of open space is no lower than that permitted in the district in which the project is located.
- C. The distance of every building from the nearest property line meets setback requirements of the district in which the project is located.
- D. Total impervious lot coverage shall not exceed twenty-five percent (25%).

509.2 Farmsteads. Farmsteads shall be considered Group Project for the purpose of this Section. The number, location and arrangement of structures within a farmstead shall not be subject to the lot size or setback requirements of this Section provided that:

- A. Setback requirements from the boundaries of the farmstead shall apply, and the minimum lot size for the entire farmstead shall be two (2) acres.
- B. Provisions affecting water supply and sewage treatment systems shall apply within farmsteads.

C. Permits required in this Section are required for farmsteads.

510.0 Vehicular Access. Where, in the judgment of the unit of government having responsibility for a public road, egress onto a property may cause a traffic hazard; said unit of government may require the owner of the proposed development to prepare a plan showing the means of access to a public need. The unit of government or its designated representative shall approve said plan prior to the issuance of any permit by the Administrator.

Subdivision 600.0 Sanitary Provisions

Domestic water supplies and the disposal of wastes, within the jurisdiction of this Section, shall conform to the provisions of this Ordinance and all applicable laws, rules and regulations of the State of Minnesota.

601.0 Water Supply. Any public or private supply of water for domestic purposes shall meet or exceed standards for water quality of the Minnesota Department of Health.

601.1 Public water supplies shall be used where available and feasible for nonfarm uses. Connection to a public water supply is encouraged but is not mandatory for existing farm uses.

602.0: Waste Disposal

602.1 General. The disposal of sewage, industrial wastes, or other wastes as defined in Minn. Stat. Chapter shall be subject to the standards, criteria, rules and regulations of the Minnesota Pollution Control Agency and the regulations of the County.

A. No rubbish or trash shall be thrown or discarded in any manner into any public water.

B. No solid waste disposal site shall be located within the jurisdiction of this Ordinance, unless approved by the Pollution Control Agency and the County.

Subdivision 700.0 Nonconformities.

All legally established nonconformities as of the date of initial adoption of this Ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards shall also apply in shoreland areas.

701.0 Construction on Nonconforming Lots of Record

701.1 Lots of Record. Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of Subdivision 501.0 of this Section may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Section are met.

701.2 Variance of Setbacks. A variance from setback requirements shall be required before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints and shall deny the variance if adequate facilities cannot be provided.

701.3 Substandard Lots. If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this Section the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot shall be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the requirements of this Section to the **extent possible**.

702.0 Additions to or Expansions of Nonconforming Structures

702.1 General. All additions or expansions to the outside dimensions of an existing nonconforming structure shall meet the setback, height and other requirements of this Ordinance; or must be authorized by a variance issued in conformance to the following:

- A. The substitution of one (1) nonconforming use for another nonconforming use on the same property may be permitted only when such substituted use is of a same or more restrictive classification provided that the Board of Adjustment deems the proposed use to be no more harmful to the district in question than the existing nonconforming use. In permitting such nonconforming use substitution, the Board of Adjustment may require appropriate conditions and safeguards in accordance with this Ordinance. In no case shall such nonconforming use substitution be construed to alter the intent of this Ordinance.
- B. When a conforming use is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. A reasonable interim between tenants or occupants shall not be construed to mean discontinuance or abandonment.
- C. No existing nonconforming structure or land use shall be allowed to expand unless specifically authorized in this Section.

- D. Any nonconforming structure or premises devoted to a nonconforming use which is destroyed or damaged by fire, flood, tornado, or similar noncontrolable cause to an extent of more than sixty percent (60%) of its value shall if rebuilt comply fully with the provisions of this Section.

702.2 Deck Additions. Deck additions may be allowed without a variance to a structure not meeting the setback requirements of this Section if all of the following criteria are met:

- A. The structure existed on the date the structure setbacks were established.
- B. A thorough evaluation of the property and structure reveals no reasonable location for the deck meeting or exceeding the existing setback requirements.
- C. The deck encroachment toward the OHWL does not exceed fifteen percent (15%) of the existing setback of the structure or does not encroach closer than thirty (30) feet from the OHWL, whichever is more restrictive.
- D. The deck is constructed primarily of wood and is not roofed or screened.

703.0 Nonconforming Sewage Treatment Systems. Nonconforming sewage treatment systems shall be upgraded in accordance with the following requirements.

703.1 A sewage treatment system not meeting the requirements of this Ordinance shall be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the system's improper setback from the OHWL.

703.2 The Lincoln County Board of Commissioners has by formal resolution notified the Commissioner of its program to identify nonconforming sewage treatment systems. The County Board shall require upgrading or replacement of any nonconforming system identified by this program not later than five (5) years from the date of notice or the date specified in said resolution whichever is sooner. After the date specified in said resolution or in the event the Board identifies a system as a public health hazard, nonconforming systems shall be upgraded within ninety (90) days of written notice unless the Administrator grants an extension of time due to weather conditions. Sewage systems installed according to all applicable Lincoln County shoreland management standards adopted under Minn. Stat. § 105.485, in effect at the time of installation may be considered to be 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's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming in all circumstances.

703.3 Sewage Treatment Systems located on existing farmsteads or other dwelling sites, and which are no longer actively used shall be exempt from the replacement requirements of Subdivision 703.2 provided that:

- A. The property owner declares in writing that the system is not currently used and is abandoned, and this is verified by the Administrator.
- B. A system may be considered abandoned when the Administrator determines that the dwelling or other facility served is vacant, is not for sale or rent, or is uninhabitable; and is unlikely to be used for a purpose requiring a sewage treatment system in its current condition.
- C. Should a dwelling or facility ever be rehabilitated for any use requiring a sewage treatment system after it has been declared abandoned; a sewage treatment system meeting all requirements of Subdivision 602.0 shall be required.

Subdivision 800.0. Subdivision Regulations

See Section XV Subdivision 1000.0 for Subdivision Regulations.

SECTION V

**URBAN EXPANSION
MANAGEMENT
DISTRICT (U)**

SECTION V – URBAN EXPANSION MANAGEMENT DISTRICT (U)

The Urban Expansion Management District is identified as lands classified as either partial, perimeter or potential urban service areas. Each classification is dependent upon the location of a parcel of land in relation to an incorporated municipality and the public services that community provides to it or a neighboring parcel of land such as paved streets, sewer and/or water facilities. It is within these parcels of land that permitted or conditional urban-related uses are allowed.

Subdivision 100.0 District Boundaries

The Urban Expansion Management District boundaries are defined as the area from the outer boundary of an incorporated municipality extending outward in each direction one-quarter ($\frac{1}{4}$) of a mile.

Subdivision 200.0 Permitted Uses

- A. Single family dwellings, provided that they conform to the standards set forth in Section VI, Subdivision 400.0
- B. Agricultural uses, except for feedlot and poultry operations.
- C. Public and private open space and recreation uses.
- D. Private and public roads.
- E. Accessory structures.

Subdivision 300.0 Conditional Uses

- A. Mobile home parks.
- B. Subdivisions for residential uses.
- C. Business and/or industrial uses
- D. Planned Unit Development (PUD)
- E. Extractive mining.
- F. Airports.

- G. Special public uses as defined by provision of Section VII, Subdivision 200.0 of this Ordinance.
- H. Home occupations.

Subdivision 400.0 Standards for Permitted and Conditional Uses

401.0 Single-family dwellings are subject to the following regulations:

- A. Lots must conform to existing public facilities presently being provided by the neighboring municipality, such as sewer and water lines and paved or gravel service roads. If these public facilities are presently not being provided, the proposed development must be compatible with the future urban expansion of the respective municipality and the township it is located in and not be detrimental to the health, safety, and general welfare of the public.
- B. Manufactured homes that do not meet specifications a-f as stated in Section I, Subdivision 1700.2, definition of “Manufactured Home (TYPE II)”, shall be located in manufactured home parks in accordance to the provisions addressed in Subdivision 500.0 of this Section.
- C. The minimum standards for lot size and setback of structures located on each lot are given in this Section.

Subdivision 500.0 Mobile Home Parks and Recreational Camping Areas

501.0 Mobile home parks are subject to the following regulations:

- A. The proposed site shall offer central sewage and water facilities, organized garbage collection, electricity, on-site parking space equal to one (1) space for each mobile home, garbage and trash disposal facilities, and safe entrance to public roads in case of emergencies.
- B. All Mobile Home Parks and Recreational Camping Areas constructed after the effective date of this Ordinance shall comply with Minnesota Statutes Chapter 327, Sections 327.10 - 327.28, laws regulating mobile home parks and recreational camping areas and Chapter 13, MHD 187-197, Minnesota State Board of Health regulations governing mobile home parks and recreational camping areas.
- C. Application for a Mobile Home Park or a Recreational Camping Area.
 - 1. An applicant for a mobile home park or recreational camping facility shall submit a plan for the proposed park for review by the Planning Commission and Board of County Commissioners.

2. The minimum setback and lot size requirements for each mobile home unit are given in this Section.

Subdivision 600.0 Feedlot and Poultry Operations

Feedlot and poultry operations are not permitted in the Urban Expansion District

Subdivision 700.0 Minimum Lot Size, Building Height, Setback Requirements

701.0 Permitted and Conditional Uses

- A. Single Family Dwellings
 1. Building Height – thirty-five (35) feet.
 2. Lot Width – one hundred twenty (120) feet minimum.
 3. Lot Depth – one hundred twenty (120) feet minimum.
 4. Front Yard – fifty (50) feet from road right of way.
 5. Side Yard – fifteen (15) feet from the adjacent lot line.
 6. Rear Yard – thirty (30) feet from the adjacent lot line.
 7. Lot Size: fourteen thousand four hundred (14,400) square feet
- B. Mobile Home Parks: height, side yard, rear yard, lot width and lot area regulations.
 1. Building Height – thirty-five (35) feet maximum.
 2. Lot Width – forty-five (45) feet minimum.
 3. Lot Depth – ninety (90) feet minimum.
 4. Front Yard – ten (10) feet from the access road.
 5. Rear Yard – ten (10) feet from the lot line.
 6. Side Yard – ten (10) feet from the lot line.
 7. Lot size – four thousand fifty (4050) square feet minimum.
- C. The minimum lot area required shall be one-third (1/3) acre with central sewer and water, and one (1) acre for on-site utilities.

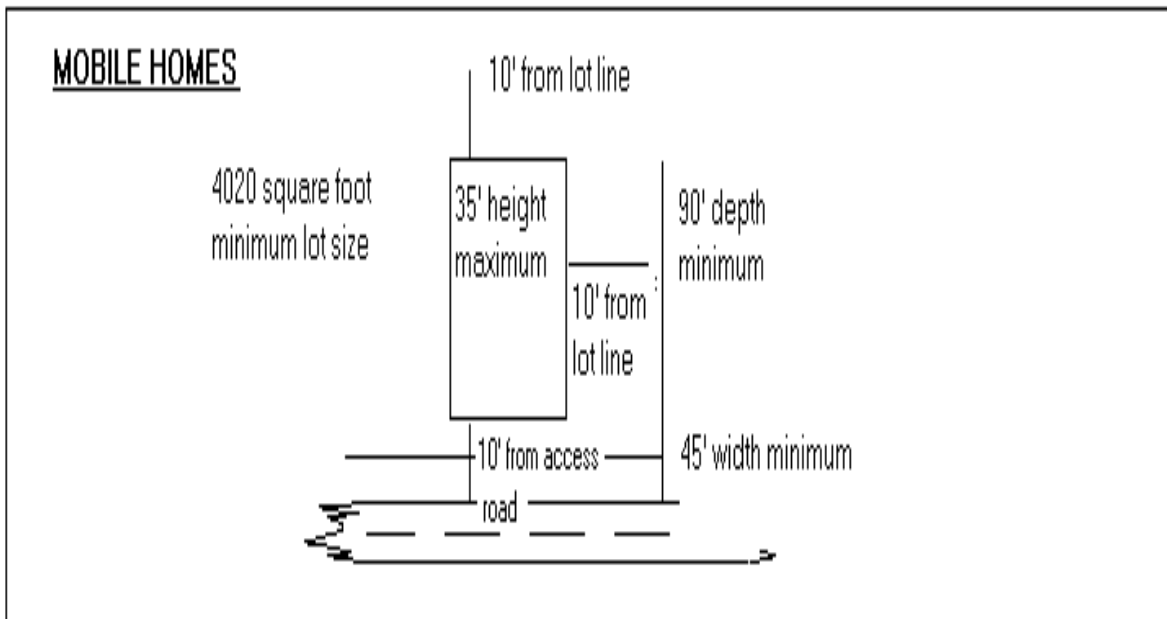
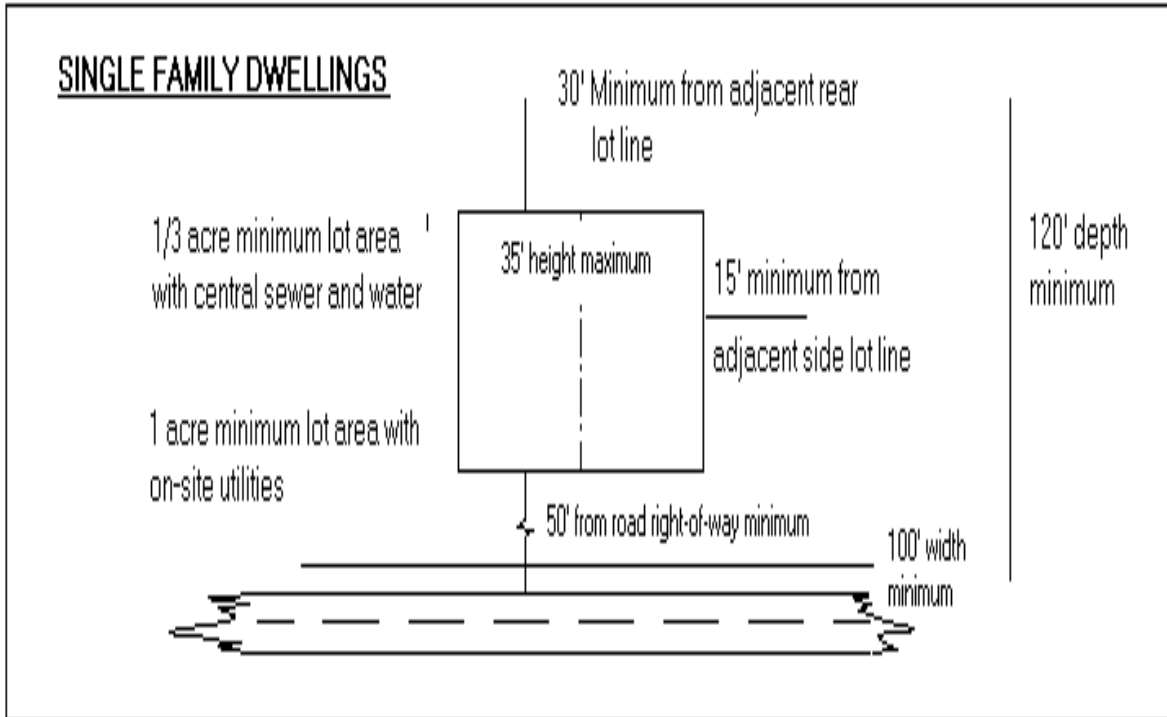
Subdivision 800.00 Lots Without Municipal Sewer and Water

- A. In subdivisions where municipal sewer and water are not available the County Board may require that the developer convey two (2) or more lots for the purpose of transfer of ownership or building development, and further that any such building development be confined to one of the multiple lots conveyed at the setbacks described in this Section. At such time as municipal sewer and water

becomes available, and upon connection of the existing building development to same, the underdeveloped lots may be conveyed to other persons or entities and building developments may be permitted on the previously undeveloped lots at the setbacks as described in this Section.

- B.** In cases where the County Board requires the conveyance of two (2) or more lots to establish a building site, all provisions of the County's Ordinance shall apply on an individual lot basis.
- C.** Subdivision with municipal water and sewer: In subdivisions where municipal water and sewer service will be available at the time of acceptance of the final plat by the County Board, the purchase of only one (1) lot for development purposes is required. The minimum lot size is set forth in this Section.
- D.** Additional requirements for signs, parking, and other regulations in the Urban Expansion District are set forth in the GENERAL REGULATIONS.

URBAN EXPANSION MANAGEMENT DISTRICT (U)



SECTION VI

**RURAL PRESERVATION
MANAGEMENT
DISTRICT (AG)**

SECTION VI – RURAL PRESERVATION MANAGEMENT DISTRICT (AG)

Subdivision 100.0 District Boundaries

101.0 For all lands that are not classified in accordance with Section V, IV or VII of this Ordinance, they will lie within the Rural Preservation Management District. These lands are predominantly noted for their agricultural and/or natural area uses.

Subdivision 200.0 Permitted and Conditional Uses

201.0 Permitted land uses allowed the Rural Preservation Area include:

- A. Agriculture
- B. Soil and Water Conservation Structures
- C. Home Occupations
- D. Manufactured Homes Type I
- E. Manufactured Homes Type II

202.0 A conditional use permit is required for the following land uses:

- A. Essential Services
- B. Open Space and Recreation
- C. Non-farm Dwellings
- D. Roads
- E. Airports
- F. Demolition Landfill Sites
- G. Special Public Uses
- H. Industrial Uses
- I. Business Uses
- J. Extractive Uses

- K. Feedlots (greater than two hundred ninety-nine (299) AU) see Section VIII of this ordinance
- L. Transmission/Wind Monitoring Towers

Subdivision 300.0 Standards for Permitted and Conditional Uses

301.0 The following standards shall be enforced; upon passage of this Ordinance, for those permitted and conditional uses as they relate to:

- A. All lands to be cleared or drained shall have the approval of the respective watershed district. Lands not in a watershed district shall have the approval of the Soil and Water Conservation District following the criteria used by the watershed districts.
- B. Feedlot and poultry operations shall conform to the regulations set forth by the Minnesota Pollution Control Agency and Section VIII of this Ordinance.
- C. All farm and non-farm buildings and accessory structures within the Rural Preservation Management District shall be setback from all state, county, township roads and all other public roads at least one hundred (100) feet from the right-of-way of the road. Implement storage and hay bales must also comply with these standards, if such obstructions are deemed unsafe, unsuitable, or improperly located for the effective and efficient maintenance of public roads and public safety.
- D. Demolition landfill sites shall conform to the regulations of the Minnesota Pollution Control Agency and the County Solid Waste Management Plan.
- E. Irrigation permits are not required for review by the County Planning Commission, but must be reviewed by the Soil and Water Conservation District and the Minnesota Department of Natural Resources.

Subdivision 400.0 Height, Side Yard, Rear Yard, Lot Width, Lot Area Regulations

401.0 The following dimensional standards shall be enforced:

- A.** Height regulations: No buildings shall be erected or structurally altered to exceed thirty-five (35) feet in height. EXCEPTION: Farm & Agricultural structures.
- B.** Side Yard Regulations: A thirty (30) foot side yard setback is required.
- C.** Rear Yard: A thirty (30) foot rear yard is required.
- D.** Lot Width: Every lot shall have a width of not less than one hundred (100) feet abutting a public right-of-way.
- E.** Lot Area Regulation:
 - 1.** Non-farm dwellings shall consist of at least three (3) acres of land per site and only one (1) such site shall be permitted on each quarter quarter (1/4 – 1/4) section of land located within Rural Preservation Area.
 - 2.** Farm dwellings shall consist of at least three (3) acres of land per site.

402.0 Exceptions: (For existing sites only)

- A.** A waiver form may be obtained from the appropriate road authority when the building or structure is within the one hundred (100) ft. setback of the public road and the structure is within an existing productive homestead grove and in line with other structures and buildings on the site. If the waiver is not approved, the applicant may request a public hearing before the Board of Adjustment.
- B.** A waiver form may be obtained from neighboring property owner(s) for proposed buildings and structures within the required setbacks of the neighboring property line. If the waiver is not approved, the applicant may request a public hearing before the Board of Adjustment.
 - 1.** A waiver may not be used for buildings or structures exceeding fifty percent (50%) of the required setback.
 - 2.** No building or structure shall be constructed to prevent access of equipment or people for fire protection.

Subdivision 500.0 General Regulations

Additional requirements for signs, parking, and other regulations in the Rural Preservation Area are set forth in Section XV of this Ordinance, General Regulations.

Subdivision 600.0 Farmstead & Field Windbreak Plantings

601.0 Intent: The Farmstead and Field Windbreak Management is intended to address specific unanswered questions throughout Lincoln County. Although unlike structures, they must be placed appropriately to serve their desired purpose of erosion, wind, snow, and water retention control and for an expedient response for plantings, because of the short period of time which tree planting must take place and to avoid the delay in tree planting due to variances, neighborhood disputes and disagreements.

- A.** To preserve and enhance the aesthetics and scenic values of present plantings and to encourage increased tree planting throughout Lincoln County because of its natural prairie topography and to conserve agricultural topsoil.
- B.** To enhance wildlife habitat, to create snow, wind and water retention areas and green space and other environmental uses beneficial to citizens of Lincoln County.

602.0 Existing Farmstead Windbreaks and Field Windbreaks: No person shall remove or destroy any SWCD Cost-Shared living field windbreak in the Rural Preservation areas of the County without first making an application for, and obtaining a conditional use permit. No such permit shall be issued unless the landowner has entered into a contractual restrictive agreement covenant providing for the implementation of an alternative erosion control plan meeting the standards and specifications agreed upon by the Lincoln County Soil and Water Conservation District. The restrictive covenant must be approved by the Planning Commission before the Conditional Use Permit is issued. No permit will be required for normal and necessary thinning of trees in the field windbreaks.

603.0 Standards for Height, Side, and Rearyard Lot Area Regulations:

- A.** New Farmstead windbreaks shall be at least one hundred (100) feet from the road right-of-way.
 - 1.** Exception: on existing farmsteads where plantings need to establish the required buffer zone from windbreak to structures on the site for proper function of the farmstead windbreak for wind and snow retention, approval by the appropriate road authority will be required.
- B.** No trees will be allowed on any right-of-way when farmstead windbreaks or field windbreaks are replaced.
- C.** Tree plantings under electrical highlines shall be of a shorter variety with a maximum of sixteen (16) feet at maturity.

- D. All field windbreaks shall maintain a one hundred fifty (150) feet setback from all public road intersections, all public road right of ways and railroad intersections except when waived by the appropriate road authorities.
- E. Existing farmstead windbreaks and the replacement of the windbreaks shall not extend beyond any structures on-site to allow for as much visual clearance as possible.
 - 1. Exception: Where persons request to plant on or closer to a property line, a waiver agreement may be used by the affected property owners and this agreement shall be recorded and on file at the Lincoln County Recorder's Office.

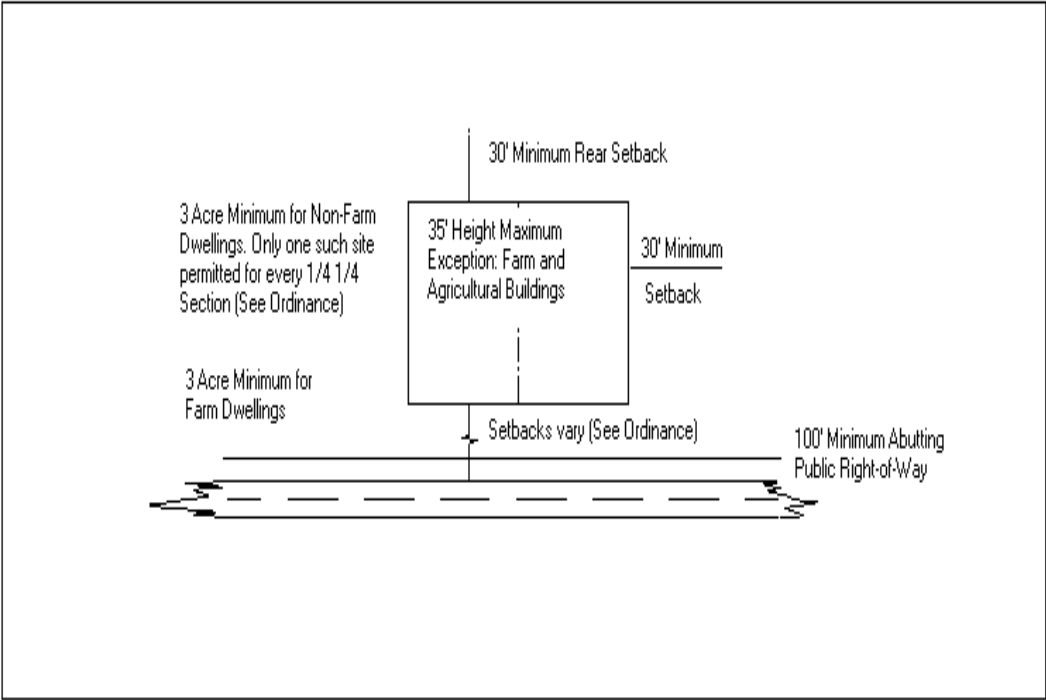
604.0 County and Judicial Ditches. A setback of fifty (50) feet must be obtained along drainage ditch systems for all on-going operations and maintenance such as, but not limited to ditch cleaning, grading of spoil banks, spraying and cutting of noxious weeds, brush and trees.

605.0 Variance. A variance may be requested from any requirements set forth in this ordinance if the strict enforcement of such provision would cause unnecessary hardship or would be unreasonable, impractical, or not feasible.

Subdivision 700.0 Subdivision/Platting of Land

701.0 Subdivision/land platting requirements are set forth in Section XV Subdivision 1000.0 Subdivision Regulations.

RURAL PRESERVATION MANAGEMENT DISTRICT (AG)



SECTION VII

**BUSINESS AND
INDUSTRIAL DISTRICT
(B-I)**

SECTION VII. BUSINESS AND INDUSTRIAL DISTRICT (B-I)

Subdivision 100.0 Purpose and Boundaries

101.0 The B –I Business and Industrial District is intended to provide a district that will allow retail, commercial and general industry uses in the unincorporated areas of Lincoln County at standards that will not impair the traffic carrying capabilities of abutting roads and highways. The standards of this District are intended to encourage development that is compatible with surrounding Districts.

102.0 The Boundaries of the Business and Industrial District are defined as one-quarter (¼) mile from the outer boundary of an incorporated municipality, extended outward one and one-quarter (1¼) mile.

Subdivision 200.0 Permitted Uses

The following uses shall be permitted within the B – I BUSINESS AND INDUSTRIAL DISTRICT:

- A. Agriculture.
- B. Automobile service stations.
- C. Billboards and signs, as regulated in the General Regulations.
- D. Drive-in restaurants.
- E. Farm implements sales and service.
- F. Government buildings.
- G. Landscape nursery, garden store.
- H. Offices, business or professional.
- I. Restaurants, cafes, taverns.
- J. Vending machines.

Subdivision 300.0 Conditional Uses

The following uses may be allowed in the B – I BUSINESS AND INDUSTRIAL DISTRICT subject to the Conditional Use Provisions:

- A. Other business activities of the same general character as listed in Subdivision 200.0 of this Section.
- B. Single-family houses.
- C. Any production, processing, cleaning, servicing, testing, repair, or storage of materials, goods, or products that conform to the performance standards set forth hereinafter, and that shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic materials, odors, fire or explosion hazards, or glare.
- D. Automobile service stations: for the retail or wholesale dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto; facilities for chassis and gear lubrication are permitted only if in an enclosed ~~in a~~ building.
- E. Building material sales.
- F. Cartage and express facilities.
- G. Contractors', architects', and engineers', offices, shops, and yards, such as building, cement, heating, electrical, ventilation, and air-conditioning, masonry, painting, plumbing, refrigeration, and roofing.
- H. Dry-cleaning establishments.
- I. Dwelling units, for watchmen and their families, located on the premises where they are employed in such capacity.
- J. Farm implements sales and storage.
- K. Fuel and ice sales.
- L. Grain elevators.
- M. Garages – for storage, repair, and servicing of motor vehicles.
- N. Greenhouses – wholesale.
- O. Mail order houses.
- P. Printing.
- Q. Public utility and service uses, including:

1. Railroad right-of-way.
 2. Telephone exchanges, telephone transmission equipment buildings, and microwave relay towers.
- R. Publishing.
- S. Transmitting and receiving towers.
- T. Restaurants.
- U. Other General Industrial activities similar to those listed above in this Subdivision.
- V. Signs and billboards as regulated by Section XV GENERAL REGULATIONS.
- W. Air, railroad, and water freight terminals, railroad switching and classification yards, repair shops, and roundhouses.
- X. Solid wastes transfer stations and resource recovery stations.

Subdivision 400.0 Accessory Uses

The following uses shall be permitted accessory uses within the B – I BUSINESS AND INDUSTRIAL DISTRICT:

- A. Accessory uses customarily incident to the uses permitted in Subdivision 200.0 and 300.0 of this Section.

Subdivision 500.0 Height, Yard, Lot Width, and Coverage Regulations

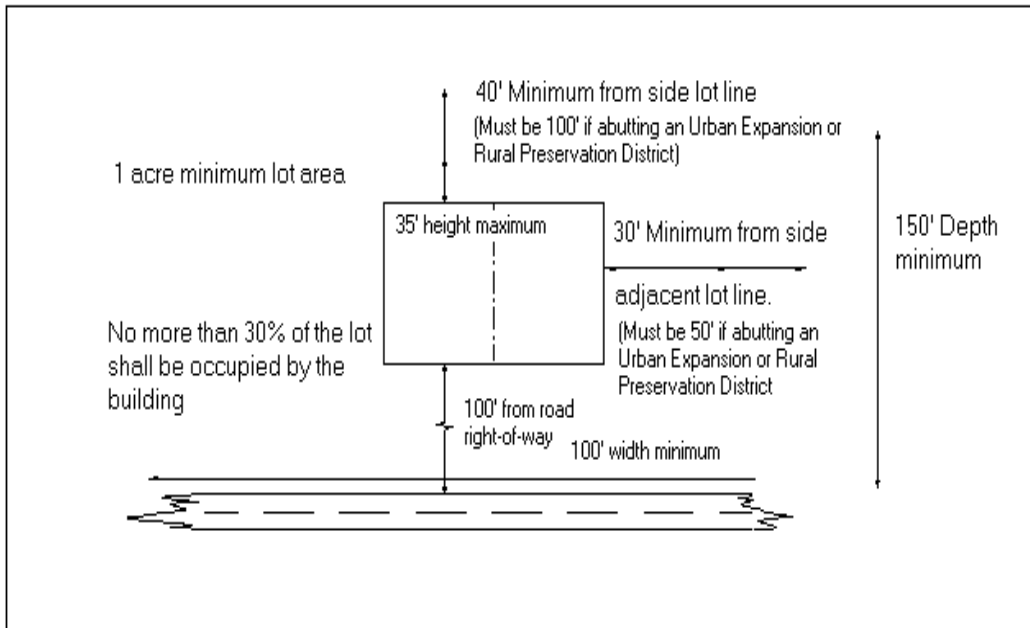
- A. Height – thirty-five (35) feet maximum.
- B. Front yard setback – one hundred (100) feet (right-of-way) minimum.
- C. Side yard setback:
 1. Thirty (30) feet minimum.
 2. Except that no building shall be located within fifty (50) feet of any side lot line abutting a lot in any Urban Expansion District or Rural Preservation District.
- D. Rear yard setback:
 1. Forty (40) feet minimum.

- 2. Except that there shall be a minimum rear yard of one hundred (100) feet of any lot line abutting a lot in any Urban Expansion District or Rural Preservation District.
- E. Lot area – one (1) acre minimum.
- F. Lot width – one hundred (100) feet minimum.
- G. Lot depth – one hundred fifty (150) feet minimum.
- H. Lot coverage – Not more than thirty percent (30%) of any lot shall be occupied by buildings.

Subdivision 600.0 General Regulations

601.0 Additional requirements for signs, parking, and other regulations in the B – I BUSINESS AND INDUSTRIAL DISTRICT are set forth in the GENERAL REGULATIONS Section of this Ordinance, Section XV.

BUSINESS AND INDUSTRIAL DISTRICT B-I



SECTION VIII

FEEDLOTS (F)

SECTION VIII. FEEDLOTS (F)

An efficient and profitable livestock industry is an economic benefit to Lincoln County and to the State of Minnesota. It provides a value-added opportunity to our crop based agriculture and creates service industries that provide employment and further economic activity. An efficient industry also provides high quality food and fiber for consumers at reasonable prices. The wastes produced in livestock production may have potential, when improperly stored, transported or field applied, to contribute to air, surface water, and groundwater pollution. When properly utilized such wastes contribute to soil fertility, texture, structure and enhance efficient crop production. The following Feedlot Section of this Ordinance has been developed to reduce risk of pollution of natural resources from feedlots.

Subdivision 100.0 Statutory Authorization

101.0 Statutory Authorization. The Lincoln County Feedlot Ordinance is adopted pursuant to the authorizations and policies contained in Minnesota Statutes, Chapters 115 and 116 and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

Subdivision 200.0 General Provisions and Definitions

201.0 Jurisdiction. The jurisdiction of this Section shall include all unincorporated lands in Lincoln County, Minnesota, except those located within incorporated municipalities.

202.0 Enforcement. Enforcement of the provisions shall be as described in Section XV, Subdivision 1000.0 of this Ordinance.

203.0 Compliance. Any feedlot shall be in full compliance with the terms of this Ordinance and other applicable regulations.

204.0 Definitions. Refer to the definitions in Section I, Subdivision 1700.0.

Subdivision 300.0 Administration

301.0 Feedlot Officer. An employee or officer of a delegated county who is knowledgeable in agriculture and who is designated by the county board of commissioners to perform the duties under Mn. Statute Chapter 7020.1600.

301.1 Appointment. The County Board shall appoint a Feedlot Officer, hereafter called the Administrator, who shall administer and enforce the provisions of this Ordinance. The County Board may authorize the Administrator to appoint such Assistant Administrator(s) as are necessary and to designate their power and duties within the limits of the Ordinance.

301.2 Powers and Duties. The Administrator shall have the following powers and duties and may delegate them to the Assistant Administrator(s).

- A. To receive and review applications for permits and issue permits only if such permit request is in full conformance with the provisions of this Ordinance.
- B. To receive and review application requests for action by the Board of Adjustment and/ or the County Planning Commission and provide such information, data and testimony as may be necessary for action to be taken.
- C. To make inspection to discover violations and check for compliance with this Ordinance. If violations of this Ordinance are discovered the Administrator shall notify the violator(s) and take such other steps as are necessary to correct the violation.
- D. To maintain records of all actions taken pursuant to the provisions of this Ordinance.
- E. To assist the public in complying with, understanding their responsibilities and rights under this Ordinance.
- F. To identify and locate jurisdiction and zoning district boundaries and public waters by on-site investigation, interpretation of official maps and other appropriate methods.
- G. To receive and review all records of any feedlot required to have a Manure Management Plan.

302.0 Board of Adjustment. See Section XVI, Subdivision 300.0.

302.1 Board of Appeals. See Section XVI, Subdivision 350.0

303.0 Planning Commission. See Section XVI, Subdivision 200.0.

304.0 Permits. No person shall operate and/or construct an animal feedlot with ten (10) or more animal units without obtaining the proper permits from the Lincoln County Environmental Office. Permit applications must be completed and submitted to the Administrator for review and approval. All applications may be considered for a Conditional Use Permit issued by the County.

304.1. Feedlot Registration. All feedlots in the county are required to register their feedlot operations every four (4) years. **The following information is required:**

- A. Legal Description.
- B. Number of animal units

C. Any changes to operation.

304.2 Interim Permit. The Administrator must issue an Interim Permit for an existing feedlot of nine hundred ninety-nine (999) or less animal units intending to construct or expand when the facility has a pollution hazard. For the purpose of expanding, constructing and correcting a potential pollution problem. These permits will expire two (2) years after the date they are issued.

A. **2005/2010 Regulations for the Open Feedlots Agreement.** Applies only to existing feedlots that are found to be non-compliant with this Ordinance and/or Minnesota Pollution Control Agency (MPCA) Chapter 7020 Rules and are less than two hundred ninety-nine (299) animal units. Feedlot Owners/Operators have the option to make a fifty percent (50%) reduction to their pollution problem by the year 2005 and to complete the remaining corrective measures by the year 2010.

304.3 Construction Short Form Permit. Applies to new or existing feedlots intending to construct or expand to a capacity between three hundred (300) and nine hundred ninety-nine (999) animal units. To qualify the feedlot must be constructed and operated in accordance with technical standards in Minnesota Rule chapter 7020.2000 to 7020.2225 and the facility does not have a pollution hazard. The duration of this permit is twenty-four (24) months from the date of issuance.

304.4 Local, State and Federal Permits. Prior to granting a permit, the Administrator shall determine that the applicant has obtained all necessary Federal, State and local permits. (Note; Feedlots greater than one thousand (1000) animal units (AU) are required to obtain a National Pollution Discharge Elimination Systems Permit (NPDES) or a State Discharge Systems Permit (SDS), and may also be required to complete an Environmental Assessment Worksheet (EAW).

304.5 National Pollutant Discharge Elimination Systems (NPDES) Permits. An NPDES Permit is issued by the state for all feedlot facilities classified as a Concentrated Animal Feeding Operation (CAFO) and/or meeting any of the following requirements:

A. The facility has one thousand (1000) or greater animal units or:

B. The total number of animals equals or is greater than the following:

1. 700 mature dairy cows (milked or dry)
2. 1,000 veal calves
3. 1,000 beef cattle (includes heifers, steers, bulls, cows and calves)
4. 2,500 swine (55 or more lbs.)
5. 10,000 swine (less than 55 lbs.)
6. 500 horses
7. 55,000 turkeys
8. 30,000 laying hens or broilers (liquid manure system)

9. 125,000 chickens (dry manure system)
10. 82,000 laying hens (dry manure system)
11. 30,000 ducks (dry manure system)
12. 5,000 ducks (liquid manure system)

304.6 State Disposal Systems (SDS) Permits. A SDS Permit is issued by the state to any facility that does not meet the criteria for an NPDES Permit or Interim Permit and has a pollution hazard. SDS Permits may also be issued for proposed, construction, and operation of a new technology.

304.7 Validity. A Certificate of Compliance will remain valid if there are no changes in the operation and the operator is in compliance with the Ordinance and the current laws and regulations for the length of four (4) years or until a new registration is required.

305.0 Appeals. Appeals of decisions of the Administrator shall be heard by the Board of Adjustment. The person(s) making the appeal must file an application for a hearing within thirty (30) days after the decision to be appealed has been delivered to the applicant by the Administrator. The Appeals procedure is located in Section XVI of this Ordinance.

306.0 Variances. An application for a variance may occur where the applicant determines that by reason of exceptional circumstances, strict enforcement of the provisions of this Ordinance would cause an unnecessary hardship. The Variance procedure is located in Section XVI of this Ordinance.

307.0 Conditional Use Permits. A Conditional Use Permit may only be issued for those conditional uses specifically identified in this Ordinance, in accordance with the procedures in Section XVI Administration.

307.1 Application and Hearing Procedures. The following application and hearing process shall be followed in applying for and deciding requests for a Conditional Use Permit relating to a Feedlot use.

A. A person desiring a Conditional Use Permit shall contact the Administrator and obtain an application form for a Conditional Use Permit. The following evaluation criteria and conditions apply but are not limited.

1. Evaluation Criteria. A thorough evaluation of the existing or proposed site shall be conducted by the Administrator and/or the Planning Commission, and shall include but is not limited to an on site inspection, to ensure:
 - a. The prevention of possible pollution of public waters, both during and after construction;

- b. An adequate animal waste plan is present (this shall include a manure management plan, odor management plan, and/or animal carcass disposal plan).
 - c. The Conditional Use Permit is consistent with the provisions of this Ordinance.
 - 2. Conditions Attached to Conditional Use Permits. The Planning Commission upon consideration of the criteria listed above and the purposes of this Ordinance shall attach such conditions to the issuance of the Conditional Use Permit, as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to the following:
 - a. Increased setbacks;
 - b. Limitations on the number of animal units;
 - c. Conditions that are consistent with the provisions of the Ordinance.
 - d. Odor and air emissions control strategies, methods and practices.
 - e. Manure management techniques and practices.
- B. The application form is completed by the applicant and submitted together with all required and necessary information to the Administrator for review and comment. When the application has been completed and reviewed, the Administrator, at the direction of the Planning Commission, shall schedule a public hearing. Notice shall be given in the official county newspaper at least ten (10) days prior to the hearing. In addition, the Administrator shall notify the following of the time, place and purpose of the public hearing:
 - 1. The applicant;
 - 2. The Clerk of the Township in which the feedlot is located;
 - 3. The Clerk of any City within one (1) mile of the feedlot;
 - 4. Property owner(s) within one-quarter (1/4) of a mile of the feedlot and/or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners.
 - 5. For feedlots greater than five hundred (500) animal units or more, where construction or expansion is proposed; all residents and owners of real property within five thousand (5000) feet shall be notified as required by Minnesota Stat. § 116.07 Sub. 7a.

- C. Prior to approval or disapproval of a Conditional Use Permit the Planning Commission shall determine that the proposed development and/or use meets the following criteria:
1. Is expressly identified in the Ordinance;
 2. Conforms to the conditions enumerated in the Ordinance;
 3. Is not injurious to the use and enjoyment of the uses already permitted in the area;
 4. Does not impede the normal and orderly development and improvement of the surrounding property;
 5. The proposed construction of new feedlots with one thousand (1000) AU or greater has or will have a feedlot site with a minimum of eighty (80) acres of contiguous property owned by the proposed development;
 6. Has or will have adequate utilities, access roads, drainage, and other necessary facilities;
 7. Reasonable measures as defined in an odor management plan or Air Emissions Plan (required by feedlots with three hundred (300) AU or greater) will be taken to minimize offensive odor, fumes, dust and noise so that none of these will constitute a public nuisance;
 8. Prior to granting a Conditional Use Permit, the Administrator and the Planning Commission shall determine that the applicant has obtained all necessary State and Federal permits.
- D. Based upon the testimony at the public hearings and the possible effect on the surrounding area. The Planning Commission shall either approve, approve with conditions, or disapprove the Conditional Use Permit within sixty (60) days of receipt of a completed application, and within thirty (30) days after the public hearing whichever will be the lessor.
- E. The County Board of Commissioners shall act on these recommendations within thirty (30) days of receipt of the recommendations not to exceed sixty (60) days after all data was provided to the Feedlot (Administrator) Officer.
- F. If granted, the Conditional Use Permit shall be filed with the County Recorder's Office.

- G. In the event that the request for Conditional Use Permit is disapproved, the applicant may appeal the decision to the County Board of Appeals as provided by Section XVI of this Ordinance.

307.2 Conditional Uses. A Conditional Use permit shall be required for:

- A. Any new feedlot with over two hundred ninety-nine (299) animal units is proposed or an existing feedlot is expanded to more than two hundred ninety-nine (299) animal units; or where an existing feed lot with up to one thousand (1000) animal units proposes to expanded the number of animal units;
- B. Any expansion or modification of an existing feedlot within the Shoreland Management District, Wellhead Protection Area, or bluff impact zone;
- C. Any feedlot requiring the Environmental Review Program Pursuant M.S. 116D.04 and 116D.045 and its administrative rules adopted by the Environmental Quality Board 4410.0200-4410.7800.

307.3 Manure Management Plan. All Conditional Use Permits shall have a manure management plan consisting of the following:

- A. Compliance with all standards established within the Lincoln County Comprehensive Zoning Ordinance;
- B. Submission of any other additional information requested by the Administrator, Planning Commission, County Board or the MPCA;
- C. Compliance with all MPCA manure management plans and field application practices and requirements prior to the Planning Commission's consideration of the Conditional Use Permit application as specified in Section 307.1 of this Section
- D. Operational and Maintenance Plan;

307.4 Odor Management Plan. All Conditional Use Permits shall have an Odor Management Plan /Air Emissions Plan consisting of the following:

- A. Methods and practices that will be used to minimize air emissions resulting from animal feedlot or manure storage area operations. Including manure storage area start-up practices, loading, and manure removal;
- B. Measures to be used to mitigate air emission exceeding the state ambient hydrogen sulfide standard; and
- C. A complaint response protocol describing the procedures the owner will use to respond to complaints directed at the facility including a list of each potential

odor source at the facility. A determination will be made of the odor sources most likely to generate significant amounts of odors, and a list of anticipated odor control strategies for addressing each of the significant odor sources.

Subdivision 400.00 Feedlot Standards

401.0 Feedlot Setbacks and Separations. In order to prevent pollution of surface and ground water, protect valuable agricultural lands, promote sound agricultural practices, and prevent conflicts, this Ordinance shall regulate feedlot size and location.

401.1 Feedlot Setbacks. All setbacks of this Ordinance shall apply across county lines. The setback standards of the County where the feedlot is located shall apply. No new feedlot shall hereafter be erected within the following distances:

- A. One-half (1/2) mile from a municipality's Business and Industry District (defined in Section VII) or two (2) miles from the existing city limits at the time of this ordinance, or
 - 1. One (1) mile from fifteen (15) or more residences within a forty (40) acre adjacent parcel(s) of land.
- B. From a neighboring residence the following setbacks shall apply:
 - 1. One-quarter (1/4) mile for a feedlot with fifty (50) up to five hundred (500) animal units (AU);
 - 2. For each additional AU over five hundred (500) an additional two (2) feet setback per AU is required.
 - a. EXCEPTION: For new feedlots with one thousand (1000) AU's to one thousand nine hundred ninety-nine (1999) AU's, where the required setback cannot be met. The Planning and Zoning Commission may reduce the set back requirements, if odor reduction technologies are implemented and are substantiated by odor modeling computer software technologies (i.e. OFFSET odor modeling computer software) to at least a ninety-five percent (95%) order annoyance free performance standard.
 - b. EXCEPTION: For new feedlots two thousand (2000) AU's and greater where the required setback cannot be met, the County Board of Commissioners may reduce the setback requirements, if odor reduction technologies are implemented and are substantiated by odor modeling computer software technologies (i.e. OFFSET odor modeling computer software).) to at least a ninety-five (95%) order annoyance free performance standard.

3. Feedlots ten (10) to forty-nine (49) AU's: no setbacks are required.
 4. Existing feedlots prior to initial adoption of this ordinance (Jan. 25, 2001) can expand without setbacks being imposed unless required by a conditional use permit.
- C. One (1) mile from the following public park(s):
1. Arco Park;
 2. Hole-in-the-Mountain;
 3. Norwegian Creek Park.
 4. Picnic Point;
 5. Stony Point.
- D. One (1) mile from a church or place of worship with regular scheduled services, cemeteries governed by a cemetery association, local government, or congregation of worshipers;
- E. New feedlots shall not be located within a Shoreland or Flood Plain Management District and/or Wellhead Protection Area as defined by the State of Minnesota Department of Health;
- F. Three hundred (300) feet from all public and private drainage ditches;
- G. New non-farm dwellings shall not be allowed within one-half (1/2) mile of an existing feedlot, unless it is to replace an existing dwelling. An approved waiver recorded at the Lincoln County Records Office permitted through a conditional use hearing resulting in a waiver of setbacks signed by all affected parties can be obtained if the one-half (1/2) mile setback can not be met.
- H. Expansion of an existing feedlot shall not be allowed in Wellhead Protection Areas as defined by the State of Minnesota/Department of Health, without a Conditional Use Permit.
- I. Expansion of an existing feedlot shall not be allowed in Floodplain areas or Shoreland areas without a Conditional Use Permit.

401.2 New Feedlot Size requirements.

- A. An eighty (80) acre minimum land ownership is required for feedlots of one thousand (1000) AU or greater.
- B. A ten (10) acre minimum of land ownership is required for feedlots two hundred (200) AU's to nine hundred ninety-nine (999) AU's.
- C. New feedlots in Lincoln County in excess of two thousand (2000) AU will require approval of the Lincoln County Board of Commissioners after meeting the requirements of this ordinance and receiving recommendation from the Lincoln County Planning & Zoning Board.
- D. Existing feedlots requesting expansion totaling more than two thousand (2000) AU will be required to have the approval of the Lincoln County Board of Commissioners after meeting the requirements of this ordinance and receiving recommendation from the Lincoln County Planning & Zoning Board.

402.0 Animal Waste Storage Facilities

402.1 Requirements. All new liquid manure holding structures for animal waste (except new swine confinement facilities producing liquid manure) shall have a minimum storage capacity of seven (7) months and shall meet the minimum construction standards required by the MPCA.

402.2 Swine Liquid Manure Requirements. All new swine confinement facilities producing liquid manure must have a one (1) year liquid holding capacity and must be pitted with a permanent cover.

403.0 Animal Waste Earthen Storage Basins

403.1 Standards. The standards for animal waste earthen storage basins and lagoons shall be in compliance with:

- A. Minimum MPCA Chapter 7020.2100 requirements;
- B. Soils identified, as having severe limitations due to seepage shall have a synthetic liner;
- C. Temporary manure storage areas (daily scrape areas) are not considered earthen basins or concrete pits and shall be operated in a non-polluting manner.

404.0 Animal Manure Application and Utilization.

404.1 Application. All application of animal manure shall comply with all setbacks of this Ordinance to minimize odor nuisance, potential point and non-point pollution.

404.2 Utilization/Acreage Requirements. All utilization of animal manure as fertilizer shall be applied in the most agronomically efficient manner. The required acreage for utilization will be based on the minimum acreage necessary to distribute manure at a rate equal to the estimated crop utilization of nitrogen and phosphorus on an annual basis. All applicants must provide:

- A. Animal unit capacity of facilities;
- B. Acreage available for spreading of manure (spreading agreement(s) shall be provided when adequate acres are not available);
- C. Typical crop rotation and annual acres of each crop;
- D. System(s) used for the collection, storage and application of manure.
- E. At a minimum, manure and processed wastewater shall meet all the requirements set forth within the Chapter 7020 Animal Feedlot Rules.

404.3 Animal Waste Application and Utilization Setback Chart:

ANIMAL WASTE APPLICATION AND UTILIZATION SETBACKS		
Surface or Irrigation Applied	Incorporation or Injection	Location
500 Feet	300 Feet OHWL	Watercourses, streams, rivers, lakes, wetlands and ditches
1,000 Feet	1,000 Feet	Municipal well
200 Feet	200 Feet	Private wells
3,000 Feet	500 Feet	Unincorporated residential areas (15 or more homes)
300 Feet	200 Feet	Residence, neighboring residence or cemeteries
3,000 Feet	2,000 Feet	City limits or zoning jurisdictional boundaries
Prohibited	Yes	10 year floodplain
300 Feet	0 Feet	Field tile intake

404.4 Liquid Manure. All liquid manure must be incorporated into the soil unless otherwise approved by the administrator, and prior to application notice is given to all residences within one (1) mile.

404.5 Exemption. When the area topography slopes away from an adjacent watercourse, animal manure may be exempted from the required setbacks upon written approval of the Administrator and meeting MPCA guidelines.

Subdivision 500.0 Nonconformity

All nonconforming feedlots as of the date of this Ordinance may continue, but they will be managed and comply according to applicable local, state and federal statutes and this Ordinance for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use.

501.0 Construction, Additions or Expansions

501.1 General. All construction, additions or expansions to the outside dimensions of existing nonconforming feedlots within the setbacks as defined by this Ordinance must be authorized by a variance issued in conformance to the following:

- A. The substitution of one nonconforming use for another nonconforming use on the same property may be permitted only when such substituted use is of a same or more restrictive classification provided the Board of Adjustment deems the proposed use to be no more harmful than the existing nonconforming use. In permitting such nonconforming use substitution, the Board of Adjustment may require appropriate conditions in accordance with the provisions of this Ordinance. In no case shall such nonconforming use substitution be construed to alter the intent of this Ordinance.
- B. When a nonconforming use is discontinued or abandoned for twelve (12) consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with this Ordinance. A reasonable interim between tenants and ownership shall not be construed to mean discontinuance or abandonment.
- C. No existing nonconforming structure or land use shall be allowed to expand unless specifically authorized in this Ordinance.
- D. Any nonconforming structure or premises devoted to a nonconforming use which is destroyed or damaged by fire, flood, tornado or similar non-controllable cause to an extent of more than fifty percent (50%) of its value shall, if rebuilt, comply fully with the provisions of this Ordinance.

- E. Modifications or expansion to existing feedlots located within a bluff impact zone, and/or shore land of any river class or within three hundred (300) feet of any lake class (Section IV Subdivision 402.2) may be allowed if approved by the County Planning & Zoning Commission. Modifications or expansions must not further encroach into the riparian setback or bluff impact zone and may not exceed a total capacity of nine hundred ninety-nine (999) animal units.

Subdivision 600.0 Feedlot Closure and Abandonment

In order to establish an environmental remediation process, protect the natural resources and safeguard the future health, safety, and general welfare of the citizens, this ordinance shall establish an orderly procedure for the closure of feedlots in Lincoln County.

601.0 Closure Provisions and Requirements

601.1 Responsible Parties. The landowner(s), owner(s) and operator(s) of any feedlot(s) shall be responsible for the ongoing management of manure and the final closure of the feedlot(s) including the cleaning of buildings and the emptying and proper disposal of manure from all manure storage structures.

601.2 Closure Plan. If a feedlot ceases operation, the owner shall submit to the County a closure plan. This plan shall include but may not be limited to:

- A. The closure plan shall be submitted at least sixty (60) days prior to the final day of operation. The plan shall include reasonable timetables for closure of the feedlot.
- B. Closure may be postponed for a period of twelve (12) months if the property is posted for sale. However, pollution hazards must be remedied immediately;
- C. Manure storage structure closure shall include the removal of the sludge in the facilities and its disposal by proper land application at agronomic rates or by other legally permissible method. Manure storage structure closure shall also include grading, leveling and sloping of the walls of the manure storage structure and area seeding;
- D. All wastes from the feedlot operation and its waste control system must be removed and disposed of on land or in some other manner which is legally permissible as soon as practical and in accordance with the approved plan in order to promote and protect public health;
- E. Each time ownership of the feedlot changes the new owner must notify the Administrator in writing within sixty (60) days of the transfer of ownership that the approved plan has been read and is understood and that all provisions of the plan will be implemented;

- F. If the new ownership will continue to operate the feedlot, closure shall not be required.

602.0 Abandonment

602.1 Liability. The owner(s) and operator(s) of any feedlot(s) shall have joint and several liabilities for clean up, closure or remediation of abandoned feedlot site(s).

Subdivision 700.0 Disposal of Animal Carcasses

701.0 Disposal Plan Requirements. The feedlot owner(s) or operator(s) shall provide a plan indicating the method to be used for the disposal of animal carcasses. This plan shall include but may not be limited to:

- A. The plan for dead animal disposal shall be consistent with the Minnesota Board of Animal Health Regulations Minnesota Rules Chapter 1719;
- B. The disposal plan shall include the name and location of any rendering service to be used and methods for protecting carcasses from scavengers;
- C. A site plan shall be included identifying the composting facility or burial areas, distance to neighboring residences, lakes and watercourses, and, the distances to ground water and bedrock.
- D. Animal carcasses whole, partial or ground-up shall not be disposed of in the manure storage structure.
- E. All buried carcasses shall comply with the MPCA solid waste rules.
- F. Incineration must be fitted with an afterburner and maintain flue gas at one thousand two hundred (1,200) degrees Fahrenheit for at least three (3) seconds and emissions not to exceed twenty percent (20%) opacity.

SECTION IX

**WINDPOWER
MANAGEMENT (W)**

SECTION IX. WINDPOWER MANAGEMENT (W)

The following regulations are intended to modify, clarify and supplement the general requirements for WINDPOWER MANAGEMENT (W).

Subdivision 100.0 Purpose

The purpose of this Section is to set forth a process for permitting wind energy facilities with a rated capacity of less than five (5) megawatts.

Subdivision 200.0 Permit Application

All proposed wind energy facilities must fill out a Conditional Use Permit application provided by the Lincoln County Environmental Office.

Subdivision 300.0 Compliance with Codes and Standards

301.0 All wind turbines shall be in compliance with all applicable state and federal regulatory standards including:

- A. Uniform Building Code as adopted by the State of Minnesota.
- B. The National Electrical Code as adopted by the State of Minnesota.
- C. FAA requirements.
- D. MPCA/ EPA regulation (hazardous waste, construction, storm water, etc.).

Subdivision 400.0 Certifications

401.0 Equipment shall conform to applicable industry standards including the American Wind Energy Association standard for wind turbine design and related standards adopted by the American Standards Institute (ANSI). It would be appropriate to require that the equipment manufacturer certify that the equipment is manufactured in compliance with industry standards.

402.0 Special attention shall be paid to all turbines that are experimental, used or prototype devices. Maintenance record, inspection by qualified wind energy professionals or some other documentation of unit integrity may be requested.

403.0 A professional engineer registered in the State of Minnesota shall certify that the tower and foundation are compatible with and appropriate for the turbine to be installed and that the specific soils at the site can support the apparatus.

Subdivision 500.0 Overspeed Controls

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

Subdivision 600.0 Windpower Setback Requirements

<u>Object</u>	<u>Setback over 100 kw</u>	<u>Setback under 100kw</u>
Residence	750 feet	300 feet
Project Boundary	5 rotor diameters	5 rotor diameters
Public Roads (from right-of-way)	300 feet	1 times height (max)
Other Structures	1.25 times their height	1.25 times height (max)

Subdivision 700.0 Noise Standards

Noise regulated by the Minnesota Pollution Control Agency under Chapter 7030. These rules establish the maximum night and daytime noise levels that effectively limit wind turbine noise to fifty (50) dB (A) at farm residences. However, these standards may not be sufficient for the “preservation of public health and welfare” in relation to impulsive noises. Additional local limits relative to impulsive and pure tone noises may be appropriate.

Subdivision 800.0 Decommissioning

801.0 Provisions shall ensure that facilities are properly decommissioned upon end of project life or facility abandonment. Decommissioning shall include: removal of all structures and debris to a depth of four (4) feet; restoration of the soil; and restoration of vegetation (consistent and compatible with surrounding vegetation) shall also be required.

802.0 Provisions shall include a decommissioning plan. This plan will identify:

- A. When and how a facility is to be decommissioned.
- B. Estimated cost of decommissioning.
- C. Financial resources to be used to accomplish decommissioning.

803.0 It may also be prudent to include provisions that ensure financial resources will be available for decommissioning. This may include establishing an escrow account into which the project developer/ owner will deposit funds on a regular basis over the life of

the project. The unit of government shall then have access to the escrow account for the explicit purpose of decommissioning. Financial provisions shall not be so onerous as to make wind power projects unfeasible.

Subdivision 900.0 Waste Management

901.0 Solid Waste. Construction of windpower facilities, as with other facilities, will lead to the generation of various types of waste: packaging, equipment parts, litter and debris generated by site clearing. Removal of such material shall be accomplished in a timely manner. Similarly, ongoing operation and maintenance of these machines results in the generation of various waste products. This may include worn parts, and packaging of new parts. All such material shall be removed from the site immediately and managed in an appropriate manner.

902.0 Hazardous Waste. Operation and maintenance of wind power facilities will result in the generation of some hazardous materials. This will primarily be used lubricating materials. All such material shall be removed from the site immediately and managed in a manner consistent with all appropriate rules and regulations.

Subdivision 1000.0 Tower Type

1001.0 Smaller co-generators of forty (40) kilowatts or less are exempt from this rule and may use lattice construction towers but must meet all other standards.

1002.0 All commercial installed wind turbines must utilize self-supporting, tubular towers. Such towers provide several benefits:

- A. Improved aesthetics, including intra and inter project visual consistency.
- B. Minimized impact on farming activities.
- C. Reduced potential for unauthorized climbing.
- D. Improved maintenance access increasing the total turbine operating availability.
- E. Reduced need for ancillary structures to house control equipment.

Subdivision 1100.0 Signage

It is important that signage be properly controlled. Signage regulations are to be consistent with Section XV, Subdivision 400. It is also recommended that signs to warn of high voltage be posted at least at the entrances of facilities.

Subdivision 1200.0 Aesthetics

1201.0 The following items are recommended standards to mitigate visual impacts:

- A. Coatings and Coloring: Non-reflective unobtrusive color. Black blades are acceptable for mitigation of icing.
- B. Signage: including anything on the tower or nacelle shall be consistent with other County ordinances pertaining to signage.
- C. Turbine Consistency: To the extent feasible, the project shall consist of turbines of similar design and size, including tower height. Further, all turbines shall rotate in the same direction. Turbines shall also be consistent in design, color and direction with nearby facilities.
- D. Lighting: Projects shall utilize minimal lighting. No tower lighting other than normal security lighting shall be permitted except as may be required by the FAA. It may be appropriate for permits to allow for some infrared lights of heat lamps to prevent icing of sensors.
- E. Intra-project Power and Communication Lines: All power lines used to collect power from individual turbines, and all communication lines shall be buried underground. Allowances shall be provided where shallow bedrock interferes with the ability to bury underground lines.
- F. Screening: There may be critical vistas or views from public roads to scenic locations that are negatively impacted by wind turbines which is determined by the Administrator. It may be appropriate to require landscaping materials at a scenic overlook that screens the view of or distracts attention from the turbines in order to minimize visual impact.

Subdivision 1300.0 Public Services

1301.0 Roads. Contractor and county will conduct re-construct evaluation of current conditions. If damage occurs to road, contractor will be required to pay appropriate amount or repair road to pre-construction condition. Contractor will be required to obtain all required permits.

1302.0 Fire. The following permit standards shall be followed to reduce risk of fire:

- A. Adherence to electrical codes and standards.
- B. Removal of fuel sources, like vegetation, from immediate vicinity of electrical gear and connections.
- C. Utilization of twistable cables on turbines

1303.0 Sewer and Water. There shall be little issue with sewer and water facilities. Any facility shall simply comply with existing septic ordinances, and state well regulations. There may not be need for on-site staff; therefore, there may not be any need for water or sewer services.

Subdivision 1400.0 Orderly and Efficient Use of the Resource

1401.0 The Lincoln County Zoning Ordinances call for the orderly and efficient use of the wind resource. Applications shall be reviewed to ensure that the project area does not adversely impact wind development potential on adjacent lands.

1402.0 Further, ordinances to keep non-comparable development from encroaching upon wind power facilities would be appropriate. New structures shall maintain the same setbacks from wind turbines as are implemented for wind turbines.

Subdivision 1500.0 Other Pertinent Information

1501.0 A description of the project including number and capacity of turbines, height and diameter of turbine rotors, turbine color, and rotor direction.

- A. A site plan, detailing the location of the project area boundaries, turbines, roads, transformers, power lines, communication lines, interconnection point with transmission lines, and other ancillary facilities or structures.
- B. Topographic map of the project site and surrounding area.
- C. Current land use on the site and of the surrounding area.
- D. Distance to impacted properties.
- E. Decommissioning plan.
- F. Engineering certification of tower and foundation design suitability for turbine and soils.
- G. Evidence of power purchase contracts and power transmission contracts, or documentation that the power will be utilized on-site.
- H. Evidence of control of wind easements in the entire project area
- I. Description and identification of adjoining wind easements.

SECTION X

**SOLID WASTE
MANAGEMENT**

SECTION X. SOLID WASTE MANAGEMENT

This Section identifies the authorization and provision for County Solid Waste Management, establishing powers and duties in connection therewith, establishing standards for and regulating solid waste management operations within the County of Lincoln.

Subdivision 100.0 Purpose and General Provisions

101.0 Purpose. The Lincoln County Board of Commissioners has adopted Solid Waste Management provisions to:

- A. Protect the public's health; prevent public nuisances and contamination of soil, surface water, ground water and other environments of Lincoln County from waste through the control of number, location and operation of waste management activities.
- B. Preserve and protect land and water resources.
- C. Assure that all persons are informed and responsible for their actions regarding waste that may affect the environment and the community now and in the future.
- D. Support activities that will promote the reduction, reuse and recycling of materials found in waste.
- E. Augment, supplement and support existing Lincoln County and State of Minnesota controls on waste.

102.0 Jurisdiction. The jurisdiction of this Ordinance shall include the unincorporated areas within Lincoln County, Minnesota; and the incorporated areas of Lincoln County where Minnesota Stat. § 115A apply.

103.0 Enforcement. The Administrator 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 shall constitute a misdemeanor and shall be punishable as defined by law.

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

105.0 Additional Requirements/Waivers. 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. The County Board may waive any licensing, construction, or operation

requirements based on the characteristics of the waste, the site or the proposed service, provided such waiver will not endanger the health or the safety of the public.

106.0 No Consent. 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.

107.0 Other Ordinances and Regulations. Nothing in this Ordinance shall preclude any local unit of government from adopting more restrictive regulations than this Ordinance.

Subdivision 200.0 Rules and Definitions

201.0 Interpretation of Terms and Abbreviations. Unless specifically altered, terms and abbreviations used in this Ordinance shall be interpreted in a manner consistent with Minn. Stat. § Chapters 115, 115A, 116, 375, 400, 561.01, 609.74 and regulations 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.

202.0 Definitions. See Section I, Subdivision 1700.0.

Subdivision 300.0 Administration and Enforcement

301.0 General Conditions. All waste in Lincoln County shall be stored, collected, transferred, transported, processed and disposed of, or reclaimed in a manner consistent with the requirements of this Ordinance and any applicable State and Federal laws. The County is responsible for enforcement of these regulations and encourages cooperation of municipalities, which may adopt these regulations for use in local laws, ordinances or regulations.

302.0 Solid Waste Administrator. The Lincoln County Solid Waste Administrator shall be appointed by the Lincoln County Board of Commissioners.

303.0 Authority. The Administrator has been given the authority by the Lincoln County Board of Commissioners to implement and carry out the provisions of this Ordinance including, but not limited, to the following:

303.1 Inspection and Investigation. To inspect operations to determine compliance with this Section and to investigate complaints about violations of this Ordinance.

303.2 Review. To review and consider all license applications and supporting materials which are referred to the Administrator for operations within the County, and after consideration, to recommend in writing with documentation to the County Board that a license may be granted or denied.

303.4 Studies. 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.

303.5 Implementation of County Solid Waste Programs.

- A. To implement all programs as proposed by the approved, and as amended County Solid Waste Management Plan.
- B. To plan, implement and administer all County operated waste abatement facilities.
- C. To advise, consult and cooperate with the public and other governmental agencies in furtherance of the purpose of this Ordinance.

304.0 Variances. Upon written application of the responsible persons, to the Administrator, the County Board of Adjustments may grant variances from the provisions of this Section to promote the effective and responsible 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. Refer to Subdivision 306.0 of this Section for variance proceedings.

305.0 Appeals. The Lincoln County Board of Commissioners shall act as a Board of Appeals. Any person wishing to appeal any action taken by the County pursuant to this Ordinance may request a hearing. The County Administrator must receive the appeal within thirty (30) days, exclusive of the day of receipt of notice, after the person received notice of the action taken by the County. The request shall be in writing stating the grounds of the appeal. If a person fails to submit an appeal within the required time period, the person forfeits any opportunity for a hearing. The County Board of Appeals shall schedule a hearing within thirty (30) days of receipt of the notice of appeal, and shall send to the appellant by mail notice of the hearing date, time and location. If the appellant or his or her authorized representative fails to attend the hearing, the appellant forfeits any right to hearing. The County Board of Appeals shall send to the appellant by mail notice of the decision by the County within thirty (30) days after the close of the hearing. Any time limitations may be extended thirty (30) days by resolution of the County Board and longer upon agreement between the appellant and the County Board. See Subdivision 306.0 of this Section for additional appeals proceedings.

306.0 Permit, Variance and Appeal Proceedings. Unless otherwise stated herein, the following procedures shall apply to all:

- A. Permit applications brought before the Board of Adjustment;
- B. Variance applications brought before the Board of Adjustment; and
- C. Appeals brought before the County Board of Appeals.

306.1 Once all application materials are received, the County Board of Adjustment/Appeals has up to sixty (60) days to act.

- A. The County may refer the application to the Agency, the County Environmental Office and the municipality or township affected within fifteen (15) days for its recommendations.
- B. The County Board of Adjustment/Board of Appeals may, at its discretion, hold a public hearing on a permit application, appeal and/or variance request. Notice of public hearing shall be posted in a public location in the Lincoln County Courthouse and published at least once in the County's legal newspaper at least ten (10) days prior to the hearing.
- C. Any hearings or meetings of the County Board of Adjustment/Board of Appeals shall be held under such rules and procedures as the County Board of Adjustment/Board of Appeals shall establish to ensure the presentation of evidence, discussions and deliberations in an orderly manner.
- D. County Board of Adjustment/Board of Appeals decisions shall be by resolution with findings of fact that support the decision.
- E. For good cause, or upon agreement with the applicant, the County Board of Adjustment/Board of Appeals may extend the time limitations herein by resolution.
- F. As part of its deliberations at its discretion, the County Board of Adjustment/Board of Appeals may request additional information from the applicant. All time periods shall be tolled from the date of the request until compliant by applicant, subject to dismissal of the application. If applicant does not, without good cause, comply within ninety (90) days.

306.2 Decisions by the County Board of Adjustment for permits and variances, and by the County Board of Appeals for appeals shall be based upon:

- A. Compliance with this Ordinance and approved variances.
- B. Compliance with other applicable County ordinances and plans, including but not limited to the Solid Waste Management Plan, Comprehensive Local Water Management Plan and Shoreland Management Ordinance.
- C. Compliance with Agency Rules, Local, State and Federal law.
- D. Recommendations of Local Government.

- E. Recommendations of persons affected by the proposal as conveyed at a public hearing, if held.
- F. Determination of need for the facility or activity.
- G. Consideration of the adequacy of existing public services and additional services necessary for the facility or activity.
- H. Whether the activity or facility requested is beneficial to the County and its citizens or merely to the applicant.
- I. The hazards, including potential risks and hazards, to persons, property, soil, water, animal and plant life the purposed activity or facility presents, both presently and in the foreseeable future.
- J. No permit, variance or appeal shall be issued without strict compliance of parts A, B, and C above. The remaining considerations shall be considered and weighed by the County Board of Adjustment/Board of Appeals in determining whether the proposed activity or facility's necessity, benefits and safety justify any hazards it may present.

306.3 In connection with the issuance of any permit, variance or appeal herein, the County Board of Adjustment / Board of Appeals may impose conditions, restrictions or specifications that it determines are necessary to ensure compliance with this Section and the safety of persons, property, water, animal and plant life.

306.4 In all proceedings herein, the applicant is deemed to have the burden of proof with regards to any issue.

307.0 Inspections. All property affected by this Section shall be subject to inspection of the County in accordance with Minnesota law. The County may collect samples for evidence or laboratory examination as deemed necessary for enforcement of this Section. No person shall refuse to permit the County's officers to inspect any premises. No person shall molest or resist the County's officers in their discharge of duty for protection of the public health or waters of the State.

308.0 Non-conforming sites and facilities. The rules, regulations and requirements of the County and the Agency shall govern the termination and abandonment of each non-conforming waste facility and activity within the County. Owners or operators, or both, of real property being used for waste disposal purposes shall be responsible for satisfactorily completing termination and abandonment procedures.

309.0 Illegal Dumping.

309.1 It shall be a violation of this Section for any person to dispose of waste within Lincoln County at any place except where authorized by this Section.

309.2 It shall be a violation of this Section for any person to operate an open dump. A site operated as described in Subdivision 501.1 of this Section will not be considered an open dump per this provision. The owner of any open dump in existence at the time this Ordinance is enacted shall cease operations and close the dump in accordance with the following provisions. The owner shall:

- A. Close access to the site and prohibit the public from using the site. Signs indicating that dumping is not allowed shall be posted.
- B. Stop burning, if present; and remove all chemical containers.
- C. Remove waste that may cause pollution and transport to an appropriate permitted facility.
- D. Eradicate rodents.
- E. Divert surface water drainage around and away from the disposal area.
- F. Compact the waste and cover it with at least two (2) feet of compacted cover material.
- G. Seed the cover material so that adequate shallow rooted vegetation is present.
- H. Establish and maintain a final grade sufficient to promote water runoff without excessive erosion.

310.0 Violations and Penalties. All provisions of this Section shall be enforced according to this Subdivision.

310.1 Misdemeanor. Any person within the County who violates this Section, or who shall permit such a violation to exist on the premises under his or her control, or who shall fail to take action to abate the existence of the violation within the specified time period when ordered or notified to do so by the County, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

310.2 Equitable Relief. In the event of a violation or a threat of violation of this Section, the County Attorney may take appropriate action, including application for injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate such violations or threatened violations. In the event the County prevails on any issue, it shall be awarded attorney's fees and costs.

310.3 Civil Action or Cost as Special Tax. If a person fails to comply with the provisions of this Section, the County may recover costs incurred for corrective action in a civil action in any court or competent jurisdiction and/or, at the discretion of the County, the costs

may be certified to the County Auditor as a special tax against the real property. County remedies herein are not deemed exclusive.

311.0 Solid Waste Assessment. The County Auditor shall each year assess a solid waste management service charge per parcel payable with real estate taxes. The service charge for Residential parcels and for Non-Residential parcels shall be set by the County Board of Commissioners. On or before October 15th each year, the County Board shall certify to the County Auditor all unpaid outstanding per parcel charges and a description of the lands against which the charges arose. It shall be the duty of the County Auditor, upon order of the County Board to extend the assessment with interest rate provided for in Minn. Stat. § 279.03, subd. 1, upon the tax rolls of the County for the taxes of the year in which the assessment is filed. For each year ending October 15th, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the State of Minnesota. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under general laws of the State. Unpaid charges on tax exempt properties may be collected in Small Claims Court or through such other means as may be approved by the County Attorney.

Subdivision 400.0 Waste Storage Disposal

401.0 Waste Storage.

401.1 General. The owner, lessee and occupant of any single or multi-family dwelling, business establishment, industry and all other premises, is responsible for the satisfactory storage of all solid waste accumulated at that premise, business establishment or industry. No building, structure, area, or premise shall be constructed or maintained for occupancy, use or assembly without adequate facilities for sanitary and safe storage, collection, transportation and disposal of waste.

401.2 Garbage Containers. Garbage and similar putrescible and mixed putrescible solid waste shall be stored in:

- A. Durable, rust-resistant, nonabsorbent, watertight, rodent-proof, and easily cleanable containers, with close-fitting, fly-tight covers and having adequate handles or bails to facilitate handling, or;
- B. Other types of containers acceptable to the municipality and conforming to the intent of this regulation.

401.3 Refuse Storage Containers. Refuse shall be stored in durable containers or as otherwise provided in this Section. Where garbage and similar putrescible wastes are stored in combination with non-putrescible refuse, containers for the storage of the mixture shall meet the requirements for garbage containers.

401.4 Toxic and Hazardous Waste. Toxic or hazardous wastes shall be stored in durable, leak-proof containers and shall be “painted and marked” so as to easily identify the container as a toxic or hazardous waste, (e.g. a yellow band that encircles, at a minimum, the center one-third (1/3) of the container) consistent with federal and state regulations (MN Rules Ch. 7045). All previous lettering and numbering will be obliterated from the container. The container will be marked within the yellow band, or other easily identified area, using a permanent marker as follows:

- A. The chemical name of the waste;
- B. The UN or NA Number;
- C. The contaminants present by percentages;
- D. The start date;
- E. The generators name and address; and
- F. The generators EPA or Agency Identification Number.

401.5 Household Hazardous Waste. No person shall place household hazardous wastes into a container for solid waste or recycling collection. All household hazardous wastes shall be disposed of through a permitted Household Hazardous Waste Facility.

401.6 Maintenance of Waste Storage Containers. All containers for the storage of waste shall be maintained in such a manner as to prevent the creation of a nuisance or menace to public health. Containers that are broken or otherwise fail to meet requirements of this Section shall be replaced.

401.7 Waste Materials too Large for Containers. Waste objects or materials too large or otherwise unsuitable for storage containers shall be stored in a pollution and nuisance free manner which is pollution-free, nuisance-free, and in compliance with the regulations of the Federal, State, and Local Governments, and their regulatory agencies.

401.8 Recycling Containers. Waste shall not be stored or disposed in containers specifically designated for the collection or deposit of recyclables.

401.9 Garbage Storage.

- A. Wastes shall not be stored outside a private residence, in a residential or urban rural setting, for more than one (1) month without the written approval of the Administrator.
- B. Solid waste shall not be stored on public, commercial or business property for more than two (2) weeks, without the written approval of the Administrator.

- C. Non-putrescible wastes suitable for recycling shall not be stored on a public or private property in a manner which creates a nuisance, blight or health hazard.
- D. Compostables shall not be stored in public or private property in a manner which creates a nuisance, blight or health hazard.

Subdivision 500.0 On-Site Disposal of Solid Waste

501.1 Farm Households. A person who owns or operates land used for farming may bury, or burn and bury, solid waste generated from a person's household located on the farm land or as a part of the person's farming operation if the burying is done in a nuisance free, pollution free, and aesthetic manner on the land used for farming from which it was generated.

501.2 Exclusion. Subdivision 501.1 does not apply if:

- A. Regularly scheduled pickup of solid waste is reasonably available at the person's farm, as determined by resolution of the County Board of Commissioners.
- B. To the following materials from land disposal:
 - 1. Waste Tires (Refer to Subdivision 701.0)
 - 2. Waste Appliance (Refer to Subdivision 702.0)
 - 3. Waste Oil (Refer to Subdivision 703.0)
 - 4. Household Hazardous Waste (Refer to Subdivision 704.0)
 - 5. Lead Acid Batteries (Refer to Subdivision 706.0)
 - 6. Other materials as identified by Minnesota Statute and Rules.

502.2 Open Burning of Waste. Any burning of waste at a site shall be prohibited except as allowed by Agency rules, Minn. Stat. § 17.135, and any local ordinance, if applicable.

Subdivision 600.0 Waste Facility and Activity Permit Requirements.

601.0 Waste Facilities or Activities Which Require Permits. Unless otherwise provided in this Section, no person shall cause or allow real or personal property under their control to be used for waste management purposes, except at an operation for which a permit has been granted by the County. For the purposes of this Section, waste management activities which require permits include, without limitation, the following activities.

601.1 Operation of Mixed Municipal Solid Waste (MSW) Land Disposal Facilities. (Appendix A)

601.2 Operation of Demolition Waste Land Disposal Facilities. (Appendix B)

601.3 Operation of Incinerator Facilities (Appendix C)

601.4 Operation of MSW Transfer Station, Recycling or Composting and Co-composting Facilities (Appendix D)

601.5 Collection and Transportation of Waste (Appendix E)

602.0 Waste Activities Which Do Not Require a County Permit.

602.1 A permit shall not be required for the disposal of solid waste from a single household on the household's property as allowed in Subdivision 501 of this Section.

602.2 A permit shall not be required for the disposal of yard waste by composting from a single household on the household's property.

602.3 Generators of recyclable solid waste shall not need a permit for any materials delivered to a permitted recycling facility.

602.4 No generator of waste shall be required to obtain a permit for storage or disposal of waste as long as the waste is delivered to a collector, transporter or disposal facility permitted by this Section, if applicable, and is stored and transported in compliance with Agency regulations (MN Rules Chap. 7045), State and Federal law.

602.5 A permit shall not be required for waste management activities involving organic waste from agricultural production or the keeping of animals.

602.6 A permit shall not be required for the operation of individual septic systems or sanitary and wastewater sewage disposal systems and treating facilities operated by a municipality.

602.7 The County Board of Commissioners may, after consideration of the purpose and intent of this Section and the Solid Waste Management Plan, at its sole discretion, waive the permit requirement for any waste management activity.

603.0 Pre-Application Requirements. Prior to the County Board of Adjustment's consideration of the initial application for a waste facility or activity permit governed by this Section, the applicant shall submit to the Administrator for review a needs assessment.

- A. The Needs Assessment shall show
 - 1. The name and address of the owners and operators of the proposed site and facility.
 - 2. Proposed location of the facility or activity.
 - 3. Geographical areas expected to be served by the proposed facility or activity.
 - 4. The expected life of the facility.
 - 5. Current and projected population of the area(s) to be served for expected life of the facility.
 - 6. The proposed operating hours and number of employees of the facility.
 - 7. A description of the type of vehicles and number of vehicles using the facility.
 - 8. The anticipated type, quantity and source of waste to be handled at the facility.
 - 9. The type and amount of equipment to be provided for the operation of the facility.
 - 10. A description of the intended operating procedures.
- B. Once all requirements of the pre-application have been met and received, the Administrator shall have forty-five (45) days to file a recommendation with the applicant and County Board of Adjustment.

604.0 Permit Applications. Following pre-application approval, any person applying for a permit to operate a waste management facility or activity in the County shall complete and submit to the County a complete application on a form provided by the County. The application shall not be considered complete until the County receives all applicable fees and materials required by this Subdivision, and any subsequent Subdivision and Appendix(s) relevant to the specific waste management permit being requested.

605.0 Plans, Specifications and Reports. Depending on the complexity and size of the facility or activity and the type of waste to be managed, the applicant may be required to submit complete sets of plans, specifications and reports prepared by a professional engineer and/or architect licensed in Minnesota for evaluation by the County.

606.0 Standards of Appendix(s) Shall Guide Permit. The Subdivision and the Appendix(s) adopted as part of this Section shall guide the applicant in:

- A. The plan and specification preparations and review by the County.
- B. The construction and operation of the waste management facility.
- C. The conditions for closure and post-closure of the waste management facility and activity.
- D. The applicant and permittee shall abide by all specifications and requirements of the applicable sections and Appendix(s).

607.0 Additional Information Required by County. The applicant shall submit additional data requested by the County, including, but not limited to, scientific studies and reports. The County shall provide the applicant with an approved list of professional engineers licensed in Minnesota and other consultants from which the applicant can choose. All expenses incurred in providing the additional data shall be at the expense of the applicant. The County may waive a requirement for submitting certain information if such a waiver will not endanger the health or safety of the public.

608.0 State Permitting Information. All submittals to the State during the State permitting and/or licensing process of waste management facilities shall also be submitted to the County. Copies of all State and Federal permits and licenses shall also be submitted.

609.0 Permit Review Process. Upon receipt of a favorable pre-application recommendation, and applicant shall have up to ninety (90) days to meet all application requirements and submit required information.

609.1 Time limits may be extended to ninety (90) day periods upon request of applicant if request is made prior to expiration.

609.2 If the time limit or extension(s) thereof expire without compliance with this Section, the application shall be denied unless continued at the sole discretion of, and by formal resolution of, the County Board of Adjustment.

610.0 Permit Insurance.

610.1 A waste management facility or activity shall not be effective until:

- A. The permittee complies with all other requirements of this Section and any other ordinance that may be affected.
- B. The permittee receives Agency approval and permit if necessary.
- C. The permittee provides the County proof of adequate performance bonding, certificates of insurance, and a closure, post-closure and contingency action plan.

610.2 A person applying for a permit shall not commence any construction of operation activities until the permit has been approved by the County Board of Adjustment. Once issued, a permit shall be valid as long as the permittee is in compliance with the terms of the permit, County and Local Ordinances, Agency rules and State and Federal law. In the event of violation, the permit shall be immediately suspended until the violation is remedied. If not remedied within thirty (30) days of the initial violation, the County Board of Adjustment may revoke the permit after ten (10) days notice to the permittee.

610.3 The permit is not transferable.

611.0 Performance Bond Requirements. Unless otherwise provided by the County Board of Adjustment, issuance of any permit pursuant to the provisions of this Section shall be contingent upon the applicant furnishing to the County a performance bond, in an amount to be set by the County Board, and naming the County as obligee with sufficient sureties duly licensed and authorized to transact corporate safety business in the State of Minnesota as sureties.

- A. The condition of such bond shall be that if the principal fails to obey any of the requirements or do any of the acts required by this Section in the operation of the waste facility or activity, and the County is required to expend any monies, labor or material to restore the facility to the condition and requirements as provided by this Section, the obligor and the sureties on its bond shall reimburse the County for all expenses, including legal fees and costs, incurred to remedy the failure of the principal to comply with the terms of this Section. The obligor and its sureties will indemnify and save the County harmless from all losses, costs and charges that may occur to the County because of any default of the obligor under the terms of the permit to operate and the Ordinance of the County.
- B. The performance bond shall be subject to cancellation by the surety at any time only upon giving one hundred twenty (120) days prior written notice of cancellation to the County. In lieu of part or all of said bond, the permittee may provide evidence of financial assurance in a form acceptable to the County Board to be used to bring the facility or activity into compliance with said requirements.

612.0 Certificates of Insurance. The permittee shall furnish the County certificates of insurance issued by insurers duly licensed within the State of Minnesota covering public liability insurance, general liability, automobile liability, completed operations liability, and bodily injury liability in the amounts to be set by the County Board. For facilities which generate toxic emissions or leachate, liability insurance may be required depending on availability and cost. If toxic emissions or leachate liability insurance is not available or provide additional financial assurance funds for liability that may arise from leachate and/or toxic emissions upon terms as determined by the County. In addition, the permittee shall provide evidence of worker's compensation coverage in the required statutory amounts.

613.0 Financial Assurance. Unless otherwise provided by the County, issuance or renewal of any permit shall be contingent upon the owner of the site or facility or the operator or both providing financial assurance for the closure, post-closure maintenance and monitoring and contingency action of the site or facility.

- A. Documentation submitted with the application for County approval shall include funding procedures, a description of the funding method, the value of the funding and an inflation adjusted cost estimate which assures that the closure, post-closure and possible contingency action activities at the site or facility take place.
- B. The method of financial assurance shall provide that the County have the right to draw funds or that part or all of the funds shall be paid to the County in the event that the owner or any successor in interest or operator fails to perform any required closure or post-closure activities or duties.
- C. Amounts paid to the County shall be used by the County to carry out closure and post-closure activities. Use of the financial assurance monies shall be limited to the site or facility for which it was approved.
- D. The County may change the amount of the financial assurance required if the County determines that the funds necessary to complete the closure, post-closure monitoring and maintenance have changed.

614.0 Operational Reporting. During the life of the permit or license, the licensee and/or permittee shall annually report, on forms provided by the County, information requested relative to operations. In addition, copies of all correspondence with the Agency, as well as other governmental units involved in monitoring the facility or activity relating to operations shall be provided to the County in a timely manner, not later than ninety (90) days after receipt.

615.0 Permit Period. Unless otherwise provided by the County, each permit granted pursuant to the provisions of this Section shall be for a period as stipulated in the Appendices of this Section, unless earlier suspended or revoked. The permit year for waste management facilities and activities shall be from January 1 to December 31.

616.0 Permit Renewals.

616.1 Application for the renewal of a permit shall be made no later than ninety (90) days prior to the expiration of the permit.

616.2 If the facility has been maintained in compliance with this Section and other applicable laws, and proper renewal application has been made with the appropriate fees paid, the County may, at its discretion, issue the renewal permit without routing the application through the procedures required for the initial permit.

616.3 The County may temporarily extend a permit pending determination of the renewal application.

617.0 Permit Fees. The County Board shall, by resolution, establish fees, including fees for the initial permit, renewal of permit and other fees as may be necessary for the administration of this Section. The County Board may waive fees for any political subdivision applying for a solid waste permit.

Subdivision 700.0 Special Materials and Wastes

701.0 Waste Tires. The following requirements are adopted to insure the proper handling of Waste Tires:

701.1 Minnesota Rules and Statutes.

- A. Minnesota Rules, Chapters 7001 and 9220 of the Minnesota Waste Tire Permitting Rules are hereby incorporated by reference.
- B. The disposal of waste tires in the land is prohibited. This does not prohibit the storage of unprocessed tires at a collection or processing facility (Minn. Stat. § 115A.904).

701.2 General

- A. Waste Tires within one thousand (1000) feet of a residence shall be stored or utilized in a manner that prevents water from being retained in the tires.
- B. Waste Tires shall not be placed, stored, left or permitted to remain in a lake, stream, wetland, sinkhole, gully, waterway, floodplain or shoreland.
- C. The owner of the land or premises upon which tires are located in violation of this Section shall be obligated to remove them to a licensed solid waste facility, or obtain the license required by this Section within one (1) year of the effective date of this Ordinance, or such later date approved by the Administrator.

701.3 Residential Lot Storage. No more than ten (10) waste tires may be stored within the boundaries of any residential lot.

701.4 Non-Residential Lot Storage. No more than one hundred (100) waste tires may be stored on any non-residential lot except at a properly licensed solid waste facility.

701.5 Exceptions. Exceptions to Subdivisions 701.1A and 701.2 of this Section may be allowed when waste tires are utilized outside the building for decorative, recreational, structural, constructional or agricultural purposes where they comply with the requirements or other applicable laws or sections of this Ordinance.

702.0 Waste Appliances. (Minn. Stat. § 115A.9561)

702.1 Prohibited Methods of Disposal. A person may not place major appliances in mixed municipal solid waste; or dispose of major appliances in or on land in a solid waste processing facility or disposal facility.

702.2 Accepted Methods of Disposal. All waste major appliances must be recycled or reused. All major appliances will be delivered to the County appliance depot at the landfill or to a County approved appliance recycling facility. Recycling includes: the removal of capacitors that may contain PCB's, removal of ballasts that may contain PCB's, removal of chlorofluorocarbon refrigerant gas; and the recycling or reuse of the metals, including mercury.

703.0 Waste Oil and Oil Filters

703.1 Waste Oil. A person may not place used oil in mixed solid waste or place used oil in or on the land unless approved by the Agency. (Minn. Stat. § 115A.916)

703.2 Oil Filters. All commercially generated oil filters will be disposed of, or recycled according to Agency rules and regulations.

704.0 Household Hazardous Waste. All household hazardous wastes shall be disposed of through the County designated household hazardous waste facility.

705.0 Yard Waste. (Minn. Stat. § 115A.931) Yard Waste subject to this subdivision includes garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste and prunings.

705.1 Prohibited Methods of Disposal. A person may not place yard waste.

- A. In mixed municipal solid waste.
- B. In a disposal facility; or
- C. In a resource recovery facility except for the purpose of reuse, composting or co-composting.

705.2 Accepted Methods of Disposal. Yard waste disposal in Lincoln County may include, but it not limited to the following methods.

- A. County permitted municipal collection sites;
- B. Backyard compost sites, when approved by the local jurisdiction.

706.0 Lead Acid Batteries. (Minn. Stat. § 115A.915)

706.1 Disposal. A person may not place a lead acid battery in mixed municipal solid waste or dispose of a lead acid battery. Lead acid batteries shall be taken to a lead acid battery recycling facility or returned to the vender for transport to a recycling facility. (Minn. Stat. § 115A.915).

706.2 Transport. A person who transports used lead acid batteries from a retailer must deliver the batteries to a lead acid battery recycling facility. (Minn. Stat. § 115A.9152)

707.0 Prohibited Disposal. The following items are banned for final disposal at solid waste disposal facilities designed by Lincoln County and will be disposed of properly under the rules and regulations of the Agency:

- A. Dry Cell Batteries containing mercury, silver, or nickel-cadmium, or sealed lead-acid batteries that were purchased for use or used by a government agency or an industrial, communication or medical facility.
- B. Household Hazardous Waste. By definition in Section I, Subdivision 1700 of this Ordinance.
- C. Lead Acid Batteries (vehicles batteries).
- D. All used oil and commercially generated oil filters.
- E. White Goods (major appliances). By definition in Section I, Subdivision 1700 of this Ordinance.
- F. Waste Tires.
- G. Yard Waste. By definition in Section I, Subdivision 1700 of this Ordinance.
- H. The Lincoln County Board of Commissioners will, by resolution, ban additional materials as dictated by State Statutes and Regulations.

Subdivision 800.0 Organized Collection and Recycling

801.1 Organized and Mandatory Solid Waste Collection. (Minn. Stat. § 115A.94-115A.941).

801.2 Mandatory Collection. (Minn. Stat. § 115A.941) Mandatory Collection is applicable to a City or Town with a population of five thousand (5,000) or greater.

802.0 Recycling. Any owner or occupant of a residential or multi-unit residential building, commercial, or industrial building within a Lincoln County municipality or service area shall have the opportunity to recycle the following types of materials:

- A. Metals
- B. Glass generated from food products.
- C. Plastic
- D. Paper products
- E. Such other material which may be designated by the County Board unless such waste is directly delivered or collected for direct delivery to a facility which has been approved by the County for separation of recyclables.

803.0 Mandatory Public Facility Recycling. (Minn. Stat. §115A.151) Any local unit of government, school district, state agency in Lincoln County shall ensure that facilities under its control, from which mixed municipal solid waste is collected, have containers for at least three of the following recyclable materials: paper, glass, plastic, and metal; and transfer all recyclable materials collected to a recycler.

804.0 Haulers. A collector or hauler shall refuse to knowingly accept for collection any mixed municipal solid waste within a Lincoln County municipality or service area which contains any yard waste or any other material listed as banned from the County designated waste disposal facility.

805.0 General. Nothing in this Section shall preclude persons from disposing of recyclable materials with commercial recyclers and salvage yards or with nonprofit organizations, school groups, service clubs or others that conduct recycling drives for purpose of community clean-up or organization fund drives.

Subdivision 900.0 Anti-Scavenging

901.1 Ownership of Recyclable Materials. Ownership of the designated recyclable materials set out for curbside collection or deposited in the Lincoln County drop-off sheds shall be vested in the collector and transporter of recyclable materials designated by the County Board, or by contract through the municipalities. It shall be unlawful and an offense against this Section for any person, firm or corporation other than the owner, lessee or occupant of a residential dwelling, to collect said materials for personal use.

902.0 Scavenging. Scavenging from the Lincoln County drop-off sheds, curbside programs, or waste sites is forbidden. It shall be unlawful for any person to removal of any material without authorization from the Administrator.

Subdivision 1000.0 Litter Penalties and Damages

1001.0 Penalties. A person who unlawfully places any portion of solid waste in or on public property or private lands, shorelands, roadways, or waters is guilty of a misdemeanor offense and may be liable for the cost of expense to remove, process and dispose of the waste and any additional costs deemed appropriate by a court of competent jurisdiction.

1002.0 Political Subdivision Action. The County or other political subdivisions that incurs the cost as described in this Section may bring an action to recover the civil penalty, related legal, administrative and court costs, and damages for injury to or pollution of lands, roadways, or waters where the wastes were placed if owned or managed by the entity bringing the action.

1003.0 Deposit of Penalties. Civil Penalties collected under this Section must be deposited in the general fund of the jurisdiction enforcing the penalties.

1004.0 Private Action for Damages. A private person may join an action by the County or a political subdivision to recover civil penalty to allow the person to recover damages for waste unlawfully placed on the person's property.

SECTION XI

NUISANCE

SECTION XI. NUISANCE

This Section defines nuisance, prohibits their creation or maintenance, and provides for abatement and penalties for violation.

Subdivision 100.0 Definitions.

101.0 Refer to definitions in Section 1, Subdivision 1700.

Subdivision 200.0 Public Nuisances Affecting Health

201.0 It is hereby declared to be a public nuisance to permit, maintain, or harbor any of the following:

- A.** Animals, fish, or fowl, wild or domestic, whether confined or running at large having a contagious disease or condition which endangers public health, safety, or welfare.
- B.** Carcasses of animals, fish, or fowl, wild or domestic, not buried at least five (5) feet above the seasonal high water table and at least three (3) feet under the surface of the ground or properly destroyed within seventy-two (72) hours after death.
- C.** Garbage not stored in rodent-free or fly-tight containers, or garbage stored so as to emit foul and disagreeable odors, or garbage stored so as to constitute a hazard to public health.
- D.** Accumulations of refuse, garbage, litter, abandoned property or hazardous waste as defined herein.
- E.** The unpermitted dumping of any effluent, garbage, refuse, waste water, or other noxious substance upon public or private property.
- F.** Any open pit, well, excavation, structure, barrier or other obstruction which endangers public health, safety or welfare.
- G.** The pollution of any public or private well or cistern, any public stream, lake, groundwater, or other body of water by effluent, garbage, rubbish or other noxious substance.
- H.** Any obnoxious weeds or any other vegetation which endangers public health, safety, or welfare, or which is contraband within the meaning of State or Federal laws.
- I.** The emitting or production of dense smoke, foul odor, noise, noxious gases, soot,

cinders, fumes, or sparks in quantities which unreasonably annoys, injures, or endangers the safety, health, or welfare of any number of members of the public.

- J. The public exposure of persons having a contagious disease or condition which endangers public health, safety, or welfare.
- K. Accumulation of junk, furniture, appliances, machinery, automobiles or parts thereof, or any matter which may become a harborage for rats, poisonous snakes, or vermin or which creates a visual blight, or which may be conducive to fire, or which endangers the comfort, repose, health, safety, or welfare of the public.
- L. Causing, permitting or maintaining of an abandoned cess-pool, septic tank, or cistern without its being properly filled.
- M. Failure to comply with any law or rule regarding sanitation and health including but not limited to: plumbing, water supplies, including wells and surface waters, public facilities, including food, beverage and lodging establishments and day care facilities, waste disposal, swimming pools.
- N. Dog kennels having more than thirty (30) dogs unless provided for with Conditional Use Permit.

202.0 Enforcement. It shall be the duty of the Health Authority, by and through its Administrator, to enforce the provisions of this ordinance. The Director of Environmental Health, Sanitarian, or other designated staff member is hereby the delegated authority to enforce the provisions of this ordinance, including power to inspect private premises as exists by law, issue orders for abatement, issue citations for violations, and abate nuisances. The officers charged with the enforcement of this ordinance shall take all reasonable precautions to prevent the commission and maintenance of public nuisances.

203.0 Abatement of Nuisance and Assessment of Cost. When any nuisance is found, the Health Authority shall order the owner or occupant to remove the same, at the expense of the owner or occupant, within a period not to exceed thirty (30) days, the exact time to be specified in the notice. Upon failure of the owner or occupant to abate the nuisance, the Health Authority or its designee may cause the said nuisance to be abated and if it elects to do so, shall certify the cost thereof to the County Auditor to be extended on the tax roll of the County, against the real estate from which the nuisance has been abated, all in accordance with Minnesota Stat. § 145A.04, Sub.08 and 145A.08. No person shall obstruct any official of the Health Authority in enforcing this ordinance.

- A. In the event the Health Authority deems a nuisance situation to constitute an immediate public health hazard, the Health Authority may immediately abate or condemn the nuisance. The owner or occupant shall then make safe or secure the property or nuisance in accordance with the above provisions.

204.0 Penalty.

- A. Any person violating any of the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and subject to a fine of not more than \$700 and by imprisonment for a period of not exceeding ninety (90) days or both, together with the costs of prosecution.
- B. Each day that a prohibited act shall continue or such nuisance shall be maintained, shall constitute a separate offense.

205.0 Injunctive Relief. In a violation or threat of violation of this ordinance, the Administrator under directive of the Health Authority by action of the County Attorney may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations; and the County Attorney may institute a civil action. All costs of such action, inclusive of reasonable attorney fees, shall be charged against the property owner or the real estate from which the nuisance has been abated, all in accordance with Minn. Stat. § 145A.04, Sub. 08 and 145A.08. No person shall obstruct any official of Health Authority or administrator in enforcing this ordinance.

SECTION XII

ADULT USES

SECTION XII. ADULT USES

Subdivision 100.0 Findings and Purpose.

This section is intended to regulate “adult uses,” on those premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas” which are capable of being seen by members of the public.

101.0 It is therefore in the best interest of the public health, safety, and welfare of the citizens of Lincoln County that certain types of activities, as set forth in this ordinance, are prohibited upon the premises of licensed liquor, wine, and beer establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. Further, the County intends that the standards in this ordinance reflect the prevailing community standards in the County of Lincoln. This Ordinance is intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The County Board of Commissioners also desires to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various acts of criminal conduct such as prostitution, sexual assault, and disorderly conduct.

101.1 It is further the intent of this Ordinance to:

- A. Protect the public health, safety, morals, comfort, convenience and general welfare.
- B. Protect and preserve economically viable agricultural land.
- C. Promote orderly development of the residential, commercial, industrial, recreational and public areas.
- D. Conserve the natural and scenic beauty and attractiveness of the country.
- E. Conserve and develop natural resources in the County.
- F. Provide for the compatibility of different land uses and the most appropriate use of land throughout the County.
- G. Minimize environmental pollution.

Subdivision 200.0 Authorization

201.0 This Ordinance is duly enacted pursuant to Minnesota Stat. § Chapter 394, Planning and Zoning Enabling Legislation, and by the authority of the Lincoln County Board of Commissioners.

Subdivision 300.0 Implementation

- 301.0 Jurisdiction.** The provisions of this Ordinance shall apply to all adult uses located in unincorporated areas within the boundaries of Lincoln County.
- 302.0 Compliance.** All adult uses shall be in full compliance with requirements of this Ordinance; Lincoln Zoning Ordinance, other applicable provisions of County, State, or Federal laws, and applicable fire, health, and/or safety codes.
- 303.0 Non-Conforming Adult Uses.** Non-conforming adult uses shall be subject to the provisions contained in the Lincoln County Zoning Ordinance.
- 304.0 Enforcement.** The Lincoln County Board, the Lincoln County Sheriff, and the Lincoln County Zoning Administrator are responsible for the enforcement of this Ordinance.
- 305.0 Penalty.** Any person violating any provision of this Ordinance is guilty of a misdemeanor. In addition; Lincoln County may sue for injunctive relief for any violation. Also, Lincoln County may sue for injunctive relief to prevent a violation. They may suspend or revoke any permits or licenses issued by the Board with cause.
- A. Suspension or Revocation of Adult Use License. Any violation of this Ordinance shall be a basis for suspension or revocation of any permit or license granted hereunder. In the event the County Board proposes to suspend or revoke the Adult Use License, the County Board shall hold a hearing. The County will provide ten (10) days written notice before such a hearing.
 - B. Revocation of Liquor License. Any violation of this Ordinance shall be a basis for suspension or revocation of a Liquor License issued pursuant to Minnesota Statutes § Chapter 340A. The Lincoln County Board of Commissioners or anyone they delegate shall follow the notice and hearing requirements for contested cases under Minnesota Statutes § Chapter 14.57 to 14.70 of the Administrative Procedures Act.
- 306.0 Interpretation.** In the interpretation and application, the provisions of this Ordinance shall be interpreted to protect the public health, safety and welfare of the citizens of Lincoln County by providing for the regulation of adult uses. This Ordinance is not intended to limit or repeal any other powers granted to Lincoln County by the State of Minnesota.
- 307.0 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 the Ordinance shall not be affected thereby.

308.0 Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, or impair any existing ordinances, or laws. When this Ordinance is inconsistent with any other Ordinance or law, that which imposes the greater restriction shall prevail.

309.0 Referral to Other Laws. If any section of this Ordinance references another Ordinance, Statute, Rule, or other provision of law, the reference shall be for that other provision of law as currently enacted and as it may be amended or re-codified in the future.

Subdivision 400.0 Definitions

401.0 Word Usage. Unless specifically defined in this Ordinance words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance it's most reasonable application. For the purpose of this Ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

402.0 Permitted Uses. Permitted uses of land or buildings as hereinafter listed shall be permitted only in the districts indicated, and under the conditions specified.

403.0 Definitions. Refer to definitions in Section 1, Subdivision 1700.

Subdivision 500.0 Administration

501.0 Adult Use License Required. No person shall own or operate an adult use establishment within the meaning of this Ordinance without first having secured an Adult Use License from Lincoln County.

- A. Application. The application for an Adult Use License shall be submitted on a form provided by the County and shall include.
1. If the application is an individual: the name, residence, phone number, and birth date of the applicant shall be provided. If the applicant is a partnership: the name, residence, phone number, and birth date of each general and limited partner shall be provided. If the applicant is a corporation: the name, residence, phone numbers, and birth dates of all persons holding more than five percent (5%) of the issued outstanding stock of the corporation.
 2. The name, address, phone number, and birth date of the operator and manager of such operation, if different from the owner(s).
 3. The address and legal description of the premises where the adult establishment is to be located.

4. A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment of adult business by the applicant, operator, or manager, and whether or not the applicant has ever applied for or held a license to operate a similar type business in any other community(s). In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent (5%) of the issued and outstanding stock if the corporation, and whether or not those property owners have ever applied for or held a license to operate a similar type of business in other community(s).
 5. The activities and types of business to be conducted.
 6. The hours of operation.
 7. Provisions to be utilized to restrict access by minors.
 8. A building plan of the premises detailing all internal operations and activities.
 9. The permit shall expire on December 31 of the year it is issued.
- B. Responsibility to Obtain Other Permits/Licenses. The granting of any permit or license pursuant to requirements of this Ordinance, or other applicable Lincoln County Ordinances, shall not relieve applicants of their responsibility to obtain any required state or federal permits.

502.0 Adult Use License Fee.

- A. **Submittal of Fees.** Each application for an Adult Use License shall be submitted to the County Auditor and shall be accompanied by payment in full of the required fee for the Adult Use License.
- B. **Expiration of Adult Use License.** Each license shall be issued for a period of one (1) calendar year. All licenses shall expire on the last day of December of each year. Any portion of a year less than twelve (12) months shall be counted as a full year for the purpose of calculation of fees.
- C. **Annual Fee.** The annual fee for an Adult Use License shall be as detailed in the fee schedule established by the Lincoln County Board of Commissioners. The fee may be adjusted from time to time by Board resolution.
- D. **Refund of Fee.** Any license fee paid with an application made for an Adult Use License shall not be refunded. No part of the fee paid for any license issued under this Ordinance shall be refunded.

503.0 Granting of Adult Use License.

- A.** The Lincoln County Sheriff shall investigate all facts set out in the application. Each owner of the establishment be it individual, partner, limited partner, shall be subjected to a criminal history background check by the Sheriff or his designee. Costs of the criminal history investigations shall be borne by the applicant according to a fee schedule established by the Sheriff. The application for the adult use license shall not be considered complete until all required information has been furnished, the investigation has been completed by the Sheriff, and a report provided to the County Auditor by the applicant.
- B.** The Planning Commission shall hold a public hearing and decide upon the application within thirty (30) days after the County Planning and Zoning Administration receives a complete application. At the hearing, opportunity shall be given to any person to be heard relating to the granting of the license. The Planning and Zoning Board shall grant or deny said Adult Use License within thirty (30) days of the conclusion of the hearing.
- C.** The Adult Use License shall be issued only to the applicant and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premises or person without the written permission of the County. If the license is a partnership or corporation, a change in the identity of any of the principals of the partnership or corporation shall be deemed to be a transfer of the license.
- D.** The license and permit granted hereunder shall be considered a conditional use permit and the requirements for granting a conditional use permit, under Section XVI of this Ordinance are incorporated herein and made a part hereof.

504.0 Persons Ineligible for Adult Use License. No license shall be issued to any person:

- A.** Under twenty-one (21) years of age.
- B.** Who is overdue in payments to a city, county, state, or federal government of taxes, fees, fines or penalties, or charges for municipal services and utilities assessed against them or imposed upon them.
- C.** Who has been convicted of a gross misdemeanor or felony, or of violating any law of this state or local Ordinance relating to sex offenses, obscenity offenses, or adult establishments.
- D.** Who is not the proprietor of the establishment for which the license is issued.
- E.** To any applicant who is acting as an agent for an individual who would be disqualified pursuant to the above criteria.

- F. Who has not paid the required investigation/licensing fees required by this Ordinance.

505.0 Places Ineligible for Issuance of Adult Use License.

- A. No license shall be granted for adult establishments on any premises where a licensee has been convicted of a violation of this Ordinance, or where any license hereunder has been revoked for cause, until one (1) year has elapsed after such conviction or revocation.
- B. No license shall be granted for any adult establishment which is not in compliance with the County's land use regulations, or fire, health, and safety codes and all provisions of federal and state law.

506.0 Conditions of Adult Use License.

- A. All licensed premises shall have the license posted in a conspicuous place at all times.
- B. No Minor shall be permitted on the premises.
- C. Any designated inspection officer of the County shall have the right to enter, inspect, and search the premises of a licensee during business hours.
- D. No adult goods or materials shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.
- E. In granting a license for an adult establishment, the Planning and Zoning Board may impose additional conditions to protect the best interest of the surrounding area or the County as a whole.
- F. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one (1) year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the County upon request.
- G. The licensee must cover or otherwise arrange all windows, doors, and apertures to prevent any person outside the licensed premises from viewing any items or merchandise inside the premises depicting specified sexual activities or specified anatomical areas.

Subdivision 600.0 Adult Use Operational Requirements

601.0 Adult Uses, General Provisions.

- A. Adult uses as defined in this Ordinance shall be subject to the following general provisions:
1. No person(s) under eighteen (18) years of age shall be permitted in any adult use principal premises, enterprise, establishment, business or place.
 2. No liquor license shall be issued to any adult use related premises, enterprise, establishment, business, or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in “specified sexual activities” or “specified anatomical areas”.
 3. No adult use related premises, enterprise, establishment, business or place shall allow or permit the sale or service of set ups to mix alcoholic drinks. No alcoholic beverages shall be consumed on the premises of such premises, enterprise, establishment, business, or place.
 4. Activities classified as obscene are not permitted and are prohibited. In no instance shall the application or interpretation of this Ordinance be construed to allow an activity otherwise prohibited by law.
 5. Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
 6. An adult use which does not qualify as an accessory use pursuant to Section 600.0 below shall be classified as an adult-use principal.
 7. Another adult establishment. No adult use-principal shall be located in the same building or upon the same property as another adult use-principal.
- B. Hours of Operation. Hours of operation for all Adult-uses, shall be from 9:00 a.m. to 12:30 a.m. A differing time schedule may be approved by the County Board if it can be satisfactorily demonstrated to the Board that all of the following apply:
1. The use does not adversely impact or affect uses or activities within one thousand (1,000) feet.
 2. The use will not result in increased policing and related service calls.
 3. Is critical to the operation of the business.

- C. Sign Regulations. Adult uses shall adhere to the following sign regulations in addition to those set forth in this Ordinance, Section XV Subdivision 400.0 Sign Regulations.
 - 1. Sign message shall be generic in nature and shall only identify the name and type of business. Signs shall not be pictorial.
 - 2. Signs shall be limited to the size and number of signs permitted in the district in which the use is located.

602.0 Adult Cabaret Regulations. The following additional restrictions apply to Adult Cabarets:

- A. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult cabaret without a valid Adult Use License.
- B. An Adult Use License shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons engaged, hired, or employed as dancers or performers by the licensee.
- C. An adult cabaret shall be prohibited in establishments where alcoholic beverages are served.
- D. No owner, operator, or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.
- E. No patron or any person other than a dancer or live entertainer, as provided below, shall be nude in an adult cabaret.
- F. No dancer, live entertainer, performer shall be under eighteen (18) years of age.
- G. All dancing shall occur on a platform intended for that purpose which is raised at least two (2) feet above the level of the floor.
- H. No dancer or performer shall perform or dance closer than ten (10) feet from any patron unless such dancer or performer is enclosed behind a floor to ceiling glass partition.
- I. No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- J. No person under eighteen (18) years of age shall be admitted to an adult cabaret.

603.0 Viewing Booth Regulations. The following additional regulations apply to viewing booths:

- A. Individual Motion Picture viewing booths must be without doors and the occupant must be visible at all times.
- B. Only one (1) person may be in a viewing booth at a time.
- C. Walls separating booths must be such that the occupants cannot engage in sexual activity.
- D. Each booth must be kept clean and sanitary.
- E. Minimum lighting requirements must be maintained.

604.0 Accessory Adult Use. The following additional restrictions apply to adult use accessories.

- A. Permitted Locations for Accessory Adult Uses. Accessory Adult Use shall be permitted in the Industrial Business District and the Urban Expansion District provided the accessory use conforms with the provisions of this subdivision. Accessory Adult Uses shall:
 - 1. Comprise no more than ten (10) percent of the floor area of the establishment in which it is located.
 - 2. Comprise no more than twenty (20) percent of the gross receipts of the entire business operation.
 - 3. Not involve or include any activity except the sale or rental of merchandise.
- B. Separation of Area. Accessory Adult Use shall be restricted from, and prohibit access to minors, by physically separating the following and similar items from areas of general public access:
 - 1. Movie Rental display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view of, and under the control of, the persons responsible for the operation.
 - 2. Magazines or publications classified as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
 - 3. Other adult uses not specifically cited shall comply with the intent of this Ordinance.

- C. Advertising. Accessory Adult Use shall be prohibited from both internal and external advertising and signing of adult materials and products.

Subdivision 700.0 Permitted Location For Adult Uses

701.0 Permitted Locations for Adult Use.

- A. Adult use establishments as defined in Section I, Subdivision 1700 shall only be allowed in the Business Industrial District and Urban Expansion District as conditional uses.
 - 1. Access, parking, screening, lighting, and other relevant site related criteria for all Adult uses shall be as set forth in the Lincoln County Zoning Ordinance, Section XV General Regulations.

- B. An adult-use establishment as defined in Section I, Subdivision 1700 shall be located at least one thousand (1,000) lineal feet, as measured in a straight line from the closest point of the main entrance of the building within which the adult use-principal is located, to the property line of or such distance, which ever is as provided for by Minnesota Statute.
 - 1. Any residentially used or zoned property.
 - a. Any residential site in an Ag district, for the purpose of this ordinance, will be considered the ten (10) acres surrounding the residential home.
 - b. Any licensed day-care center.
 - c. Any public or private educational facility classified as an elementary, junior high, senior high school or pre-school.
 - d. Any hotel or motel.
 - e. Any public park or trails system.
 - f. Any nursing home.
 - g. Any youth establishment.
 - h. Any church or church related organization.

SECTION XIII

**CLEANUP OF
CLANDESTINE
OF DRUG LAB SITES**

SECTION XIII. CLEANUP OF CLANDESTINE DRUG LAB SITES

Subdivision 100.0 Title and Statutory Authority

101.0 This ordinance shall be known and referenced as the “Cleanup of Clandestine Drug Lab Sites Ordinance.”

102.0 This ordinance is enacted pursuant to the powers specified in Minnesota Stat. § 145A.10.

Subdivision 200.0 Purpose

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

202.0 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.

203.0 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.

204.0 This ordinance assists and guides appropriate public authorities, property owners, and occupants to prevent injury and illness to members of the public, particularly children.

205.0 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.

206.0 This ordinance is intended to minimize the cost to Lincoln County for cleanup of clandestine drug lab sites.

Subdivision 300.0 Jurisdiction

301.0 This ordinance shall apply to all incorporated and unincorporated municipalities and land (city or township) within the boundaries of Lincoln County.

302.0 Where a municipality has lawfully passed an ordinance to regulate and enforce the cleanup of clandestine drug labs, the County shall coordinate regulation and enforcement with that municipality.

Subdivision 400.0 Interpretation and Application

401.0 The provisions of this ordinance shall be interpreted and applied as the minimum requirements necessary to protect public health, safety, and welfare.

402.0 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.

Subdivision 500.0 Disclaimer of Liability

Liability on the part of, or a cause of action against, Lincoln 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.

Subdivision 600.0 Fees

Fees for the administration of this ordinance may be established and amended periodically by resolution of the County Board of Commissioners.

Subdivision 700.0 Definitions and Rules

Definitions are set forth in Section I General Provisions, Subdivision 1700.0

Subdivision 800.0 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 a “chemical investigation site public health nuisance”.

Subdivision 900.0 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 Public Health Authority.

Subdivision 1000.0 Law Enforcement Notice to Affected Public, Public Health, and Child Protection Authorities

1001.0 Law enforcement authorities, as permitted by Minn. Stat. §13.82 as amended, who identify a clandestine drug lab site, or clandestine drug lab operation shall notify the Lincoln County departments responsible for public health and child protection within one (1) working day of identifying the lab site. The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

- A. The notice shall include sufficient information to inform the recipients of the following:
1. Property or structure location by street address and other identifiable location;
 2. Property or structure owner’s and occupant’s identities, especially the identities of any children and women of child-bearing age found or known to be associated with the site;
 3. Chemicals found and indications of chemical residues;
 4. Equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and
 5. 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

1002.0 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 rules and regulations adopted by the Minnesota Department of Health, Minnesota Pollution Control, and Lincoln County.

1003.0 When a law enforcement agency completes its work above and is prepared to leave such sites, the agency shall affix a warning sign to the entrance of the affected part of the structure. The warning sign shall be those that have been prepared in advance for such situations through the collaboration of County Law Enforcement, Public Health, 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 the Law Enforcement agency identified on the sign.

Subdivision 1100.0 Notice of Chemical Investigation Site Public Health Nuisance to Owner and Occupant

1101.0 After the Public Health Authority receives notice from a law enforcement agency that they have identified a clandestine drug lab site and posted the appropriate Chemical Investigation Site Public Health Nuisance warning sign, the Public Health Authority shall serve the known lawful occupants and owners of the site pursuant to Minn. Stat. §145A.04, Subd. 8(b) with notice of their responsibilities relative to the chemical investigation site public health nuisance.

1102.0 The public health authority shall notify and order the property owner of record and known occupant or agent to have the public health nuisance removed or abated within ten (10) days as provided in Minn. Stat. §145A.04 and this ordinance.

- A. The public health notice and order shall include the following:
1. A replica of the Chemical Investigation Site Public Health Nuisance declaration that is posted at the site's entrance(s).
 2. Information about the potentially hazardous condition of the chemical investigation site.
 3. A summary of the property owner's and occupant's responsibilities under this ordinance.
 4. Information on locating professional services necessary to remove and abate the chemical investigation site public health nuisance status as provided in this Ordinance and Minn. Stat. §145A.04.

1103.0 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.
- E. County Board.

Subdivision 1200.0 Notice Filed with Property Record and/or Motor Vehicle Record

1201.0 If after ten (10) days of receiving the notice and orders, the Public Health Authority is unable to obtain any reasonable assurance or plan from the owner or occupant that the structure is being properly vacated, cleaned, remediated, and tested the Public Health Authority shall provide a copy of the Chemical Investigation Site Public Health Nuisance notice and order to the County Recorder and to the lien and mortgage holders of the affected structure and/or properties. The County Recorder is authorized to file that information with the property record, to notify other persons with interest in the property about the property's chemical investigation site public health nuisance status.

1202.0 When the affected property is a motor vehicle, boat, or trailer, the Public Health Authority shall notify the appropriate state and local agencies that maintain motor vehicle, boat, or trailer records, and the holders of liens or security interests against the vehicle or trailer.

Subdivision 1300.0 Owner's and Occupant's Responsibility to Act

1301.0 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.

1302.0 Within ten (10) 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, motor vehicles, trailers, boat, appliances or any other affected areas 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 Department of Health and/or the Public Health Authority) 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 owner or occupant may request an extension of time to consider options for arranging cleanup or removal of the affected parts of the structure from the Public Health Authority. 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. An owner or occupant seeking such an extension under this paragraph shall do so in writing and shall also deliver copies of their written request to the County Board and County Attorney.

Subdivision 1400.0 Owner's Responsibility for Costs and Opportunity for Recovery

1401.0 Consistent with Minn. Stat. 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. County fees and costs of administering notices and enforcing, vacating, cleanup, remediation, and testing of affected parts of the property.

1402.0 Nothing in this ordinance is intended to limit the owner's, agent's, occupant's, or the County's right to recover costs or damages, from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab and/or other lawful sources.

1403.0 The County's administrative and enforcement services, referenced in subdivision 1300.0, 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.

Subdivision 1500.0 Special Assessment to Recover Public Costs

1501.0 The County is authorized under Minn. Stat §145A.04, Subds. 8(c), 8(d) to proceed within ten (10) 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, or arrange timely assessment and cleanup that is acceptable to the designated Public Health Authority.

1502.0 The County Board (or the Board's formally identified designee) 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.

1503.0 When the estimated cost of testing, cleanup, and remediation exceeds seventy-five percent (75%) of the County Assessor's market value of the structure and land, the County Board (or the Board's formally identified designee) is authorized to notify the property owner of the county's intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation.

1504.0 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 Subdivision 600 of this Section. 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 Minn. Stat §145A.08, or by any other applicable Federal, State, and County Laws, Ordinances, and/or applicable County Board Resolution.

1505.0 The cost of testing, cleanup, and remediation shall be certified by the Director of the Public Health Authority, or its designee. Notice of cost, and demand for payment, shall be forwarded to the owner by certified mail at the owner's last known address as shown on property tax records. If payment in full is not made within thirty (30) days of mailing of notice, the Public Health Authority may request that all costs be assessed against the property.

1506.0 Payment on the special assessment shall be collected at the time real estate taxes are due. The amount due, interest rate, and/or payment rate may be adjusted by action of the County Board of Commissioners. A request for review of a special assessment shall be in writing to the County Board. An owner shall also provide a copy of the request for review to the County Attorney. After receipt of an owner's written request for review of a special assessment the matter shall come before the County Board of Commissioners at the next regular meeting for action.

1507.0 The County may also seek recovery of costs through other methods allowed by Federal or State law.

Subdivision 1600.0 Authority to Modify or Remove Declaration of Chemical Investigation Site Public Health Nuisance

1601.0 The designated Public Health Authority may modify conditions of the declaration and order removal of the declaration of Chemical Investigation Site Public Health Nuisance.

1602.0 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/or others such as state and local health, safety, law enforcement and pollution control authorities to reach such decisions.

1603.0 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.

Subdivision 1700.0 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 rules and regulations adopted by the Minnesota Department of Health, Minnesota Pollution Control Agency, and the Lincoln County rules and regulations for solid waste and for Hazardous Household and other Hazardous waste.

Subdivision 1800.0 Exceptions, Appeals, and Penalties

Administration of this ordinance, including guidance for, challenges to, and penalties shall be according to the authorities provided in Minn. Stat. § 145A, other applicable Minnesota law, and Lincoln County rules and regulations for solid waste and for Hazardous Household and other Hazardous waste.

Subdivision 1900.0 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.

SECTION XIV

SUBSURFACE SEWAGE TREATMENT SYSTEMS

SECTION XIV. 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 Lincoln County incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency,
2. Requirements for issuing permits for installation, alteration, repair or expansion of SSTS,
3. Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan,
4. Standards for upgrade, repair, replacement, or abandonment of SSTS,
5. Penalties for failure to comply with these provisions,
6. Provisions for enforcement of these requirements, and
7. Promotes the health, safety and welfare of the public pursuant to the Minnesota Statutes Sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82 and in furtherance of County policy and the County Shoreland Zoning Ordinance.

Subdivision 100.0 Purpose and Authority

101.0 Purpose. The purpose of this ordinance is to establish minimum requirements for regulation of individual (and mid-size) subsurface sewage treatment systems (SSTS) for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the county's citizens by protecting its health, safety, general welfare, and natural resources.

102.0 Intent.

- A. The protection of lakes, rivers and streams, wetlands, and groundwater in Lincoln County is essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County in perpetuity.
- B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
- C. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.

- E. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

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

104.0 Effective Date. The provisions set forth in this Section shall become effective **thirty (30) days after official adoption of this ordinance.**

Subdivision 200.0 Definitions

Refer to definitions in Section I, Subdivision 1700.0.

Subdivision 300.0 General Provisions

301.0 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.

302.0 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. The County Environmental Office shall keep a current list of local jurisdictions within the County administering a SSTS program.

303.0 Administration.

- A. **County Administration.** The County Environmental Office shall administer the SSTS program and all provisions of this ordinance. At appropriate times, the County shall review this 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.

- B. **State of Minnesota.** Where a single SSTS or group of SSTS under single ownership within one-half (1/2) mile of each other, have a design flow greater than ten thousand (10,000) gallons per day, the owner or owners shall make application for and obtain a SDS permit from PCA. For any SSTS that has a measured daily flow for a consecutive seven (7) day period which equals or exceeds ten thousand (10,000) gallons per day, a SDS permit is required. SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this ordinance.
- C. **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.

304.0 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.

305.0 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.

306.0 Indemnification. Any inspector or other authorized agent on behalf of the County must observe all safety rules applicable to the premises while performing work on private property as authorized by this Ordinance and the property owner will be held harmless for injury or death to the County's inspector or agent. The County will indemnify the property owner against loss or damage claims and demands for personal injury or property damage growing out of the negligence of the County's inspector or agent, except as such may be caused by negligence of the property owner or the failure of the property owner to maintain safe conditions as required under this Ordinance or state law.

Subdivision 400.0 General Requirements

401.0 Retroactivity.

401.1 All SSTS. Except as explicitly set forth in Section 412.0 below, all provisions of this ordinance shall apply to any SSTS regardless of the date it was originally permitted.

401.2 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.

401.3 SSTS on Lots Created Before January 23, 1996. All lots created after January 23, 1996 must have a minimum of two (2) soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7.

401.4 Existing SSTS without Permits. Existing SSTS with no permits of record shall require a permit and be brought into compliance in accordance to this ordinance regardless of the date they were originally constructed.

402.0 Upgrade, Repair, Replacement, and Abandonment

402.1 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.

402.2 Bedroom Additions. The owner is allowed five (5) years from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if the following conditions apply:

- A. The Department issues a permit to add a bedroom;
- B. A SSTS inspection is triggered by a bedroom addition permit request;
- C. The existing system was installed between May 27, 1989 and January 3, 1996;
- D. The SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.;
- E. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.A.

402.3 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 eighteen (18) months of receipt of a Notice of Noncompliance.

402.4 Imminent Threat to Public Health or Safety. An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this ordinance within ten (10) months of receipt of a Notice of Noncompliance.

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

- 402.6 Vertical soil separation requirements.** The soil treatment separation requirement of three (3) feet may be reduced by fifteen percent (15%) as allowed under Minnesota Rules Chapter 7080.1500 subpart 4 item D.
- 403.0 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 flood plain 7080.2270 and all relevant local requirements are met.
- 404.0 Class V Injection Wells.** All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.
- 405.0 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 PCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.
- 406.0 Prohibitions.**
- 406.1 Occupancy or Use of a Building without a Compliant SSTS.** It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this ordinance.
- 406.2 Sewage Discharge to Ground Surface or Surface Water.** It is unlawful for any person to construct, maintain, or use any wastewater treatment system regulated under this ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the PCA.
- 406.3 Sewage Discharge to a Well or Boring.** It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.
- 406.4 Discharge of Hazardous or Deleterious Materials.** It is unlawful for any person to discharge into any treatment system regulated under this ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

Subdivision 500.0 SSTS Standards

501.0 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.

502.0 Exceptions to the Adopted Standards.

502.1 Compliance Criteria for Existing SSTS. SSTS built before April 1, 1996 outside of areas designated as shore land areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two (2) feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

502.2 Holding Tanks.

- A. Restrictive Provision: Holding tanks may be allowed for the following applications; as replacements for existing failing SSTS, SSTS that pose an imminent threat to public health or safety, or for new construction on lots existing as of the date of the enactment of this ordinance and only where it can be shown conclusively that a SSTS permitted under this ordinance cannot be feasibly installed. Holding tanks shall not be allowed for all other wastewater applications except for the exempted uses listed here. (List of exemptions to be allowed.)
- B. Conditional Provision: 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 Chapter 7080.2290.
 2. The owner shall install a remote reading water meter to continuously record indoor water use.
 3. The owner shall declare who the licensed liquid waste hauler will be, to pump and haul the holding tank to a licensed treatment facility or approved land application site.
 4. The holding tank shall be regularly pumped. Invoices shall be kept for a period of three (3) years and presented to the department upon request.
 5. The pumper shall certify each date the tank is pumped; the volume of the liquid waste removed the treatment facility or land application site to which the waste was discharged. The afore mentioned information shall be included on or with the invoice presented by the pumper.

- C. Failure to meet these requirements will result in revocation of the holding tank owners' operating permit, and/or imposition of an administrative penalty as provided in this ordinance.

503.0 Variances

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

503.2 Affected Agency. Variances 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.

503.3 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.

A. Other Variance Requests:

1. Variances to deviate from the design flow determination procedures in Minnesota Rules, Chapter 7081.0110 if the deviation reduces the average daily estimated flow from greater than ten thousand (10,000) gallons per day to less than ten thousand (10,000) gallons per day, or to provisions in 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three (3) feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by PCA.
2. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

B. Any property owner requesting relief from the strict application of the provisions in this ordinance must complete and submit an Application for Variance to the Department on a form provided by the Department.

1. The variance request must include, as applicable, sufficient information for the Board of Adjustment to make a determination.
 - a. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
 - b. The reasons why compliance with the provision or provisions is difficult or inappropriate;
 - c. A description of the hardship that prevents compliance with the rule;
 - d. The alternative measures that will be taken to ensure a comparable

- degree of compliance with the intention of the applicable provision;
 - e. The length of time for which the variance is requested;
 - f. Cost considerations; and
 - g. Other relevant information requested by the Department as necessary to properly evaluate the variance request.
- C. The appropriate fee shall be paid at the time of submittal of the application to receive consideration by the Board of Adjustment
- D. Upon receipt of the variance application, the Department shall decide if a site investigation conducted by the Department will be necessary. After the necessary information has been gathered, the Department shall make a written recommendation to approve or deny the variance to the Board of Adjustment.
- E. The Board of Adjustment, as specified in Section XVI Administration, Subd. 300.0 of this Ordinance shall make the final decision after conducting a public hearing. The variance may be granted provided that:
 - 1. The condition causing the demonstrated hardship is unique to the property and was not caused by the actions of applicant;
 - 2. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the vicinity;
 - 3. The property owner would have no reasonable use of the land without the variance;
 - 4. The granting of the variance would not allow a prohibited use; and
 - 5. The granting of the variance would be in accordance with Minnesota Rules, Chapters 7080, 7081, and 7082
- F. In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this ordinance
- G. Any violation of the terms and conditions of a variance issued pursuant to this ordinance, or any violation of any provision of this ordinance relating to the specific issue of the variance, shall result in immediate revocation of the variance.
- H. A denial or revocation of a variance may be appealed to the Board of Adjustment within sixty (60) calendar days of the denial or revocation. No application for a variance which has been denied shall be resubmitted except on the grounds of new evidence or proof of change on conditions found to be valid.

Subdivision 600.0 SSTS Permitting

601.0 Permits 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 Lincoln County Environmental Office. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant's responsibility to obtain any other required permit.

602.0 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).

602.1 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.

- A. **Activities Not Requiring a Permit.** A Construction Permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
- B. **Construction Permit Required to Obtain Building Permit.** For any property on which a SSTS permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a building or land use permit may be issued by the Department.

602.2 Permit Application Requirements. Construction Permit applications shall be made on forms provided by the Lincoln County Environmental Office and signed by the applicant and an appropriately certified practitioner including the practitioner's certification number and date of expiration. 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, Chapter 7080.1730.

D. Design Report as described in Minnesota Rules, Chapter 7080.2430.

E. Management Plan as described in Minnesota Rules, Chapter 7082.0600.

602.3 Application Review and Response. The 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 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 Department shall complete the review of the amended application within fifteen (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 Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

602.4 Appeal. The applicant may appeal the Department's decision to deny the Construction Permit in accordance with the County's established policies and appeal procedures.

604.5 Permit Expiration. The Construction Permit is valid for a period of no more than one (1) 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 of final record drawings and 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 Department or a licensed inspection business, which is authorized by the Department and independent of the owner and the SSTS installer.

602.6 Transferability. A Construction Permit shall not be transferred to a new owner. The new owner must apply for a new Construction Permit in accordance with this section.

602.7 Suspension or Revocation. The 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.

602.8 Posting. The Construction Permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

603.0 Operating Permit

603.1 SSTS Requiring an Operating Permit. An Operating Permit shall be required of all owners of new and replacement holding tanks, type 4, type 5 or MSTS systems. Sewage shall not be discharged to a holding tank or MSTS until the Lincoln County Environmental Office certifies that the MSTS or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTS, and a valid Operating Permit is issued to the owner.

603.2 Permit Application Requirements.

- A. Application for an Operating Permit shall be made on a form provided by the DEPARTMENT including:
1. Owner name, mailing address, telephone, and email address
 2. Construction Permit reference number and date of issue
 3. Final record drawings of the treatment system
 4. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business
- B. Monitoring and Disposal Contract: Owners of holding tanks shall provide to the Lincoln County Environmental Office a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, Chapter 7082.0100, Subp. 3G. this requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stat. §115.56, subdivision 3, paragraph (b), clause (3).

603.3 Department Response. The Department shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit within ten (10) working days of receipt of the permit application.

603.4 Operating Permit Terms and Conditions.

- A. The Operating Permit shall include the following:
1. System performance requirements
 2. System operating requirements
 3. Monitoring locations, procedures and recording requirements
 4. Maintenance requirements and schedules
 5. Compliance limits and boundaries

6. Reporting requirements
7. Department notification requirements for non-compliant conditions
8. Valid contract between the owner and a licensed maintenance business
9. Disclosure, location and condition of acceptable soil treatment and dispersal system site.
10. Descriptions of acceptable and prohibited discharges.

603.5 Permit Expiration and Renewal.

- A. Operating Permits shall be valid for a specific term stated on the permit as determined by the Department.
- B. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until which time the permit is renewed. If not renewed within ninety (90) calendar days of the expiration date, the Regulatory Authority may require that the system be abandoned in accordance with Section 604.0 below.
- C. The Department shall notify the holder of an operating permit at least ninety (90) calendar days prior to expiration of the permit. The Owner must apply for renewal at least thirty (30) calendar days before the expiration date.
- D. Application shall be made on a form provided by the Department including:
 1. Applicant name, mailing address and phone number.
 2. Reference number of previous owner's operating permit.
 3. Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
 4. Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the Regulatory Authority.
 5. Any revisions made to the operation and maintenance manual.
 6. Payment of application review fee as determined by the Regulatory Authority.

603.6 Amendments to Existing Permits not allowed. The Regulatory Authority may not amend an existing permit to reflect changes in this rule until which time the permit term has expired and is renewed unless an amendment is necessary to eliminate an imminent threat to public health or safety.

603.7 Transfers. The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Section 602.3 above. The Department shall not terminate the current permit until sixty (60) calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

603.8 Suspension or Revocation.

- A. The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
- B. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
- C. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Minnesota Rules, Chapter 7080.2500.
- D. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

603.9 Compliance Monitoring.

- A. Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
- B. A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - 1. Owner name and address
 - 2. Operating Permit number
 - 3. Average daily flow since last compliance monitoring report
 - 4. Description of type of maintenance and date performed
 - 5. Description of samples taken (if required), analytical laboratory used, and results of analyses
 - 6. Problems noted with the system and actions proposed or taken to correct them
 - 7. Name, signature, license and license number of the licensed professional who performed the work.

604.0 Abandonment Certification.

604.1 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.

604.2 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 Department.
- C. An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system within sixty (60) calendar days of a system. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. No prior notification of the Department of an owner's intent to abandon a system is necessary.
- D. A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
 - 1. Owner's name and contact information
 - 2. Property address
 - 3. System construction permit and operating permit
 - 4. The reason(s) for abandonment
 - 5. Brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

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

Subdivision 700.0 Management Plans

701.0 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.

702.0 Management Plan Requirements.

702.1 SSTS Requiring Management Plans. Management plans are required for all new or replacement SSTS systems. The management plan shall be submitted to the Department with the construction permit application for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

702.2 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 Department when the management plan requirements are not being met;
- E. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.
- F. Other requirements as determined by the Department.

702.3 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 (3) years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

Subdivision 800.0 Compliance Management

801.0 Public Education Outreach. Programs shall be provided by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

802.0 Compliance Inspection Program.

802.1 Department Responsibility. It is the responsibility of the Department, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this ordinance are met.

- A. SSTS compliance inspections must be performed:
 - 1. To ensure compliance with applicable requirements;
 - 2. To ensure system compliance before issuance of a permit for addition of a bedroom unless the permit application is made during the period of November 1 to April 30, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance by the following September 30;
 - 3. For all new SSTS construction or replacement;
 - 4. For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by PCA.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
- C. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, “property” does not include a residence or private building. The Department shall notify the owner of the Department’s intent to inspect the SSTS least two (2) days in advance of the intended inspection.
- D. No person shall hinder or otherwise interfere with the Department’s employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

802.2 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 (10) months or as directed under Minnesota Statutes, Chapter 145A. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
- B. It is the responsibility of the SSTS owner or the owner's agent to notify the 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 Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
- D. The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.
- E. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within fifteen (15) calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificated of compliance has been issued.
- F. Certificates of compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.

802.3 Existing Systems.

- A. Compliance inspections shall be required when any of the following conditions occur:
 - 1. When a construction permit is required to repair, modify, or upgrade an existing system;

2. Anytime there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
 3. Anytime there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
 4. At anytime as required by this ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed, or verified:
1. Water tightness assessment of all treatment tanks including a leakage report;
 2. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical separation verification report;
 3. Sewage backup, surface seepage, or surface discharge including a hydraulic function report.
- C. The certificate of compliance must include a certified statement by a qualified employee or licensed inspection business, which is authorized to by the Department, whether the SSTS is in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit application must be submitted to the Department if the required corrective action is not a minor repair.
- D. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within fifteen (15) calendar days of receipt from the licensed inspection business.
- E. Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of noncompliance.

802.4 Transfer of Properties.

- A. No owner or other person acting with legal authority on behalf of an owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an individual sewage treatment system is located, shall convey to another party said tract of land, unless the following requirements are met:
1. A compliance inspection has been performed and a Certificate of Compliance has been issued by the Department within three (3) years for SSTS older than five (5) years or within five (5) years if the system is less than five (5) years old prior to the intended sale or transfer of the property.
 2. The compliance inspection must have been performed by a qualified employee of the Department or a licensed inspection business following procedures described in this ordinance.
 3. The seller of the property must disclose in writing information about the status and location of all known ISTS on the property to the buyer on a form acceptable to the Department.
- B. Exception to Certificates of Compliance prior to transfer of ownership of property located in Lincoln County is as follows:
1. Both parties have signed an agreement stating who will be responsible for the system upgrade within the next twelve (12) months. This agreement must be filed with the Lincoln County Environmental Office before transfer of property.
 2. Transfer between spouses.
 3. Dwelling is abandoned and considered uninhabitable.
 4. Transfer where the Grantor reserves a Life Estate to said property.
 5. Transfer from Grantor to a Trust wherein the Grantor is the Settler and/or Trustee of said Trust and the Trust is for the benefit of Grantor and Grantor has the legal right to occupy said property.
 6. Transfer involving property having an approved septic system design by the Environmental Office for a Sanitary Sewer District.
 7. Pre-existing Contract for Deeds on or before January 14, 2001.

- C. The responsibility for filing the completed compliance portion of the Certificate of Compliance under section 802.4.A above, or for upgrading a system found to be noncompliant shall be determined by the buyer and seller. Buyer and seller shall provide the Department with a signed statement indicating responsibility for completing the compliance portion of the Certification and for upgrading a system found to be nonconforming.
- D. 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 noncompliance with the provisions of these standards and regulations.

802.5 Dispute Resolution. Minnesota Rules Chapter 7082.0700, Subp. 3(2) requires that a vertical separation report include verifications by two (2) independent parties, which may be licensed inspection businesses and/or a qualified employee inspector with jurisdiction. If no local dispute resolution procedures exist, the dispute resolution procedure described in Chapter 7080.0700, Subp. 5 must be followed.

Subdivision 900.0 Enforcement

901.0 Violations.

901.1 Cause to Issue a Notice of Violation. Any person, firm, agent, or corporation who violates any of the provisions of this ordinance, or who fails, neglects, or refuses to comply with the provisions of this ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.

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

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

901.3 Issuance of Citations.

- A. As specified herein, individuals occupying the designated County positions are authorized to issue citations in lieu of arrest or continued detention for a petty misdemeanor or misdemeanor violation of this ordinance.
1. Zoning Administrator
 2. Building Inspector
 3. Sanitarian
 4. Code Enforcement Officer
 5. Qualified Employee
- B. Except as otherwise provided by statute, only a peace officer and a part-time peace officer may take a person into custody as permitted by Minn. Stat. § 629.34.

901.4 Cease and Desist Orders. Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County ordinance is being or has been conducted with out a permit or in violation of a permit. When work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

902.0 Prosecution. In the event of a violation or threatened violation of this ordinance, the County may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations and it shall be the duty of the County Attorney to commence such civil action. It shall be the duty of the County Attorney and County Sheriff to perform such duties as may be necessary to enforce the provisions of this ordinance.

903.0 State Notification of Violation. In accordance with state law, the 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.

904.0 Costs and Reimbursements. If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover the costs incurred in removal or abatement in a civil action; or at the discretion of the County Board, the cost of an enforcement action under this ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor shall extend the cost as assessed and charged on the tax roll against said real property.

Subdivision 1000.0 Record Keeping

1001.0 The Regulatory Authority shall maintain a current record of all permitted systems.
The record shall contain all permit applications, issued permits, fees assessed, variance

requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed installation businesses, and other records relevant to each system.

1002.0 Annual Report. The department shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

Subdivision 1100.0 Fee Schedule

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.

Subdivision 1200.0 Interpretation

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

Subdivision 1300.0 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.

Subdivision 1400.0 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.

Subdivision 1500.0 Ordinance Repealed

Lincoln County's previous ordinance(s) for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

SECTION XV

**GENERAL
REGULATIONS**

SECTION XV. GENERAL REGULATIONS

Subdivision 100.0 Sanitary Provisions

101.0 Sewage treatment and soil dispersal in unsewered areas of the county shall conform to the subsurface sewage treatment systems (SSTS) rules and regulations promulgated by the Minnesota Pollution Control Agency (MPCA) and Section XIV of this Ordinance.

Subdivision 200.0 Solid Waste

201.0 The storage, collection, and disposal of solid waste which includes, but is not limited to garbage, refuse, discarded soil materials resulting from industrial, commercial, agricultural operations, and community activities, except animal waste used as fertilizer shall conform to the solid waste disposal regulations promulgated by the Minnesota Pollution Control Agency and Section X of this Ordinance.

Subdivision 300.0 Reserved

Subdivision 400.0 Sign Regulations

All signs hereafter erected or maintained, except official, public, traffic and street signs, shall conform to the provisions of this Subdivision and any other ordinance or regulations of the County.

401.1 General Provisions. The following regulations shall apply to all signs hereafter permitted in all DISTRICTS:

- A. Signs shall not be permitted within the public right-of-way or easements.
- B. Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.

Subdivision 500.0 Parking and Loading Regulations

All parking hereafter constructed or maintained shall conform to the provisions of this Subdivision and any other ordinance or regulations of the County.

501.0 Minimum Size Regulations: Each space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than nine (9) feet and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives. All loading spaces shall be sufficient to meet the requirements of each

use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve.

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

503.0 Computing Requirements: In computing the number of such parking spaces required, the following rules shall govern:

- A. Floor space shall mean the gross floor area of the specific use.
- B. Where fractional space result, the parking spaces required shall be construed to be the nearest whole number.
- C. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Board of County Commissioners and the County Planning Commission.

504.0 Yards: On-site parking and loading facilities shall not be subject to the front yard, side yard, and rear yard regulations for the use district in which parking is located, except that: In the B-I BUSINESS AND INDUSTRIAL DISTRICTS, no parking or loading space shall be located within ten (10) feet of any property line that abuts a highway right-of-way line, or any SHORELANDS, URBAN EXPANSION, or RURAL PRESERVATION DISTRICT except for railroad loading areas.

505.0 Buffer Fences and Planting Screens: On-site parking and loading areas near or abutting SHORELANDS or URBAN EXPANSION DISTRICTS shall be screened by a buffer fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan, and such fence or landscaping shall be installed as a part of the initial construction.

506.0 Access:

- A. Parking and loading space shall have proper access from a public right-of-way.
- B. The number and width of access drives shall be so located to minimize traffic congestion and abnormal traffic hazard.
- C. Vehicular access to business or industrial uses across property in any URBAN EXPANSION DISTRICT shall be prohibited.

507.0 Location of Parking Facilities and Combined Facilities: Required on-site parking, space shall be provided on the same lot as the principal building or use, except that combined or joint parking facilities may be provided for one (1) or more building or uses in a B-I BUSINESS AND INDUSTRIAL DISTRICT, provided that the total number of spaces shall equal the sum of the requirements for each building or use.

508.0 Construction and Maintenance:

- A. In B-I BUSINESS AND INDUSTRIAL DISTRICT, parking areas and access drives shall be covered with a dust-free, all-weather surface with proper surface drainage, as required by the County Engineer.
- B. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.

509.0 Lighting: Lighting shall be reflected away from the public right-of-way and nearby or adjacent SHORELAND, RURAL PRESERVATION, or URBAN EXPANSION DISTRICT.

510.0 Required Site Plan: Any application for a building permit shall include a site plan or plot plan drawn to scale and dimensioned, showing on-site parking and loading space in compliance with this Ordinance.

511.0 Required Number of On-Site Parking Spaces: On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors, and employees shall be provided. The minimum number of required on-site parking spaces for the following uses shall be as follows:

- A. One (1) family dwelling - One (1) parking space. No garage shall be converted into living space unless other acceptable on-site parking space is provided.
- B. Multiple dwelling or mobile home park - One and one-half (1 ½) parking spaces per dwelling unit, apartment unit or mobile home berth.
- C. Churches - One (1) parking space for each four (4) seats, based on the design capacity of the main seating area.
- D. Public elementary, junior high school or similar private school - Two (2) parking spaces for each classroom; senior high school, four (4) parking spaces for each classroom plus one (1) space for each four (4) seats in assembly or exhibition hall, auditorium, theater, or sports arena.
- E. Municipal administration buildings, community center, public library, museum, art galleries, post office, and other public service buildings - One (1) parking space for each five hundred (500) square feet of floor area in the principle structure.

- F. Golf course, golf clubhouse, country club, swimming club, tennis club, public swimming pool - Twenty (20) spaces, plus one (1) space for each five hundred (500) square feet of floor area in the principle structure.
- G. Professional office, medical and dental clinics and animal hospital - One (1) parking space for each five hundred (500) square feet of floor area
- H. Office buildings - One (1) parking space for each five hundred (500) square feet of floor area.
- I. Shopping Center - Where several business are grouped together according to a general development plan, on-site automobile parking shall be provided in a ratio of not less than three (3) square feet of gross parking area for each one (1) square foot of gross floor area; separate on-site space shall be provided for loading and unloading.
- J. Automobile service station - Four (4) parking spaces, plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.
- K. Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials sale, auto repair - One (1) parking for each five hundred (500) square feet of floor area.
- L. Bowling alley - Five (5) parking spaces for each bowling lane.
- M. Drive-in restaurant - Twenty (20) parking spaces or one (1) space for each twenty (20) square feet of floor area, whichever is greater.
- N. Motel or motor hotel - One (1) parking space for each rental room or suite.
- O. Assembly or exhibition hall, auditorium, theater or sports arena - One (1) parking space for each four (4) seats, based upon design capacity.
- P. Restaurant, café, nightclub, tavern or bar - One (1) parking space for each seventy-five (75) square feet of customer floor area.
- Q. Retail stores and service establishments - One (1) parking space for each one hundred (100) square feet of floor area.
- R. Research, experimental or testing stations - One (1) parking space for each employee on the major shift or one (1) off-street parking space for each five hundred (500) square feet of gross floor area within the building, whichever is greater.

- S. Storage, wholesale, or warehouse establishments - One (1) parking space for each two (2) employees on the major shift or one (1) parking space for each two thousand (2000) square feet of floor area, whichever is greater, plus one (1) space for each company motor vehicle when customarily kept on the premises.
- T. Manufacturing or processing plant - One (1) off-street parking space for each two (2) employees on the major shift or one (1) off-street parking space for each one thousand (1000) square feet of gross floor area within the building, whichever is greater, plus one (1) space for each company motor vehicle when customarily kept on the premises.

512.0 Required Loading Areas. Loading and unloading areas shall be located to side or rear of buildings. Loading areas at minimum should be fourteen feet wide and fifty feet (14' x 50') in depth for straight trucks, semi loading areas fourteen feet x seventy-five feet (14' x 75').

Subdivision 600.0 Performance Standards

It is the intent of this Subdivision to provide that uses of land and buildings in ALL CLASSES OF BUSINESS AND INDUSTRIAL DISTRICTS shall be established and maintained with proper appearance from streets adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by the control of the following.

601.0 Landscaping and Screening

- A. All required yards for any structure shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any of the residence districts shall be landscaped with buffer planting screens. Plans of such screens shall be submitted for approval as a part of the site plan.
- B. All junk yards, salvage yards, and open storage yards shall be screened with buffer planting or screen fences. Plans for such screens shall be submitted for approval by the Planning Commission.

Subdivision 700.0 Reserved

Subdivision 800.0 Solar Access

801.0 Purpose. The purpose of this Subdivision is to promote the use of solar energy systems, defined as, "a set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring or converting solar-generated energy", and to assure access to solar energy in accordance to Minnesota Statutes 1978, Chapter 786.

802.0 Variance. The Board of Adjustment may consider the inability to use solar energy system a "hardship" in granting a variance.

803.0 Property Owners rights. Any property owner may grant a solar easement in the same manner and with the same effect as a conveyance of an interest in real property. The easement shall be created in writing and shall be filed, duly recorded, and indexed in the office of the recorder of the County in which the easement is granted. Solar easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that a solar easement may terminate upon the conditions stated therein or pursuant to the provisions of Minnesota Stat. § Chapter 786, Section 500.20.

804.0 General Requirements: Any deed, will, or other instrument that creates a solar easement shall include, but not limited to:

- A. A description of the real property subject to the solar easement and a description of the real property benefited from the solar easement;
- B. A description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the solar easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sun light is prohibited or limited;
- C. Any terms or conditions under which the solar easement is granted or may be terminated;
- D. Any provisions for compensation of the owner of the real property benefiting from the solar easement in the event of interference with the enjoyment of the solar easement, or compensation of the owner of the real property subject to the solar easement for maintaining the solar easement.

Subdivision 900.0 Reserved

Subdivision 1000.0 – Subdivision Regulations

In accordance with authority granted by Minn. Stat. § 505.9 and elsewhere, after the effective date of this Section no lot in a subdivision may be sold, no permit shall be issued to alter or erect any building upon land in a subdivision unless a subdivision plat has been approved and recorded, and all improvements required by the County Board relative to the subdivision have been constructed or guaranteed as provided herein. Furthermore, the Lincoln County Recorder shall not record any transfer of property which does not comply with the provisions of this Ordinance.

1001.0 General Provisions

1001.1 Required Approval of Subdivision Plat. Before any plat has any validity, it shall have been approved by the County Board and recorded in the office of the County Recorder. The Plat shall be approved according to the procedures established in this Section.

1001.2 Subdivision Types. For the purpose of this Section there are two (2) types of subdivisions insofar as approval procedures and plat specifications are concerned.

- A. A minor subdivision is a subdivision created from a contiguous parcel or tract of land all of which is owned by the subdivider, and which contains less than five (5) lots and does not include land dedicated for street purposes other than street widening.
- B. A major subdivision is any subdivision other than a minor subdivision.

1001.3 Exemption for Subdivision Regulations. The following shall constitute the only exemptions from the requirements to prepare and file a plat when subdividing property. These exemptions do not constitute an exemption from any other provisions of this Section.

- A. Any sale or transfer of land solely for the purpose of farming shall not require a plat or County Board action if no parcel of land less than five (5) acres in size results from the division.
- B. No parcel of land created solely for the building of utility right-of-way, or transferred to a governmental body for the purpose of enlarging a road right-of-way shall be subject to these Subdivision Regulations.
- C. A parcel created solely to create a farm dwelling site may be exempted from these Subdivision Regulations if the site conforms to all other requirements of this Section.
- D. A single parcel five (5) acres or larger may be created from a larger parcel provided the new parcel can be described as a fractional part of a Government Lot

or quarter section, and no other parcel of less than forty (40) acres has been created in the same quarter section or Government Lot within the last ten (10) years.

- E. An existing farmstead may be divided from the surrounding farm land for the purpose of financing or sale.
- F. The County Board may allow exemptions to these Subdivision Regulations where there is clearly no intent to circumvent the intent of these Subdivision Regulations or any other provision of this Ordinance.

1002.0 General Conditions. All subdivisions shall be subject to the following general conditions.

1002.1 Existing and Proposed Development. Subdivision plans shall take existing, proposed and planned land use, developments and public improvements into consideration.

1002.2 Street Alignment and Arrangement. The alignment, arrangement, extension and projection of streets within a subdivision shall take existing and proposed street patterns into consideration.

1002.3 Access. Every lot within a subdivision shall front a public street or road dedicated to the exclusive use of the abutting property owners.

1002.4 Land Suitability. Each lot created through subdivision shall be suitable in its natural site for the proposed use with minimal alteration. Suitability analysis by the Administrator shall consider susceptibility to flooding, existence of wetlands, soil conditions, erosion potential, topography, water supply and sewage treatment, near-shore aquatic conditions, fish and wildlife habitat, presence of significant historic sites, and any other feature of the land which may affect the health, safety or welfare of future residents of the proposed subdivision or of the County.

1002.5 Consistency with Other Controls. Subdivisions shall conform to all provisions of this Ordinance, and with any other federal, state or local regulations which apply. A subdivision shall not be approved where a later variance from one or more of the provision of this Section would be required to use the lots for their intended purpose. Reasonable assurances shall be provided that a domestic water supply is available and that a sewage treatment system can be provided in conformance with this Ordinance. Each lot shall have space that is free of limiting factors sufficient for the construction of two (2) standard soil absorption systems after the lot is developed. Lots which require use of holding tanks shall not be approved.

1003.0. Plat Specifications. Final plats shall be required for all subdivisions and preliminary plats shall be required for all major subdivisions and may be required for minor subdivisions.

1003.1 Preliminary Plat Specifications. A preliminary plat shall be drawn at a scale of one (1) inch equals two hundred (200) feet or larger; shall be plainly marked “Preliminary Plat” and shall include, show or be accompanied by the following information:

- A. Date, graphic scale, north arrow, proposed name of the subdivision; and the names, addresses and telephone numbers of the landowner, subdividers and contact persons involved with the plat.
- B. Legal description of the property proposed for subdivision, and a key map showing the general location within the County.
- C. Approximate dimensions and total area of the proposed subdivision.
- D. Location and names of adjacent subdivisions and property owners.
- E. Location and dimensions of all existing and pending easements and rights-of-way within and adjacent to the proposed subdivision.
- F. Location of all property lines, section and quarter-section line, structures, drives, wooded areas, wetlands, utilities, and other significant natural or man-made features within the proposed subdivision.
- G. The surface water features required to be shown on plats in Minnesota Statutes § 505.02, Subdivision 1.
- H. A line or contour representing the Ordinary High Water Level, the “toe” and the “top” of the bluffs, and the minimum building setbacks from all public waters.
- I. The delineation of any floodplain boundaries.
- J. Existing and proposed topographic information at two (2) foot contour intervals. Five (5) foot contour intervals may be allowed by the Administrator when appropriate.
- K. The design of the proposed subdivision showing streets, blocks, lots, utilities, easements, common areas, park and lake access dedications, surface drainage patterns, and other relevant features.
- L. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; and proposed methods of controlling stormwater runoff and erosion, both during and after construction.
- M. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot. Current existing sources and field investigations such as soil borings, and percolation tests shall be used as needed. The location of all on-site tests will be noted.

- N. Where private sewage treatment systems are proposed, the type of system proposed shall be specified and detailed information concerning the suitability will be provided.
- O. Written and signed statements explaining how and when the subdivider proposes to finance and install all required improvements, and statements from all appropriate public utilities and units of government concerning the availability of services and the suitability of proposed easements and rights-of-way.
- P. Such written reports and supplemental maps as are necessary to fully explain and describe the design and development of the proposed subdivision.

1003.2 Final Plat Specifications. The final plat shall be drawn in conformance with applicable State Statutes; and shall include or be accompanied by the following information.

- A. Boundary lines of all lots together with a systematic method of numbering to identify all lots and blocks.
- B. All easements provided by the subdivider and all existing easements together with their dimensions and purpose.
- C. All survey monuments, benchmarks and property corners discovered or established and set as part of the survey.
- D. The accurate outline, dimensions and purposes of all land offered for dedication or reserved for public use, and land reserved for the common use of the property owners within the subdivision.
- E. An affidavit of ownership showing fee simple title and encumbrances and liens, and certificate of dedication of all land intended for public use, signed by the owner(s) and all other parties having a mortgage or lien interest in the property.
- F. Receipts showing that all taxes are paid.
- G. Certification from any public body requiring specific improvements as a condition of approval that the subdivider has provided acceptable plans and guarantees that the improvements will be made.
- H. Certificates of approval to be completed by appropriate officials.

1003.3 Dedications. When a land or easement dedication is a condition of subdivision approval, the approval shall provide easements over natural drainage or ponding areas for the management of stormwater and significant wetlands.

1003.4 Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use shall provide easements over natural drainage or ponding areas for the management of stormwater and significant wetlands.

1003.5 Controlled Areas or Recreational Lots. Lots intended as controlled accesses in public waters or for recreational use areas for use by nonriparian lots within the subdivision shall meet or exceed the sizing criteria in this Ordinance.

1004.0 Design Standards

1004.1 Street. The location, alignment and right-of-way width of all proposed streets shall conform to standards established by the Lincoln County Engineer and approved by the County Board. Individual Townships may establish more restrictive or supplemental standards which shall be applied when approved by the Township and filed with the County Engineer.

1004.2 Blocks. The dimension of blocks shall be consistent with generally accept design practices, the characteristics of the land and access requirements.

1004.3 Lots. Lot arrangement and design will provide satisfactory and desirable building sites, and all lots shall comply with the provisions of this Ordinance.

- A. The size, shape, orientation and suitability of every lot are subject to the approval of the County Board for the type of development and use contemplated.
- B. Lot sizes shall conform to the provisions of this Section, and have unrestricted access to a road.
- C. Double frontage lots are prohibited except that the County Board may require said lots where it is essential to provide separation of land uses or to restrict access to certain streets.
- D. Remnants of land which are below the minimum lot size shall be added to adjacent lots or street rights-of-way rather than allowed to remain as an unusable outlot or parcel unless the owner can show a specific plan for the future use of such remnants.

1004.4 Easements. Easements shall be provided of utility placement as required by the utility provider and approved by the County Board. Where a subdivision is traversed by a water course, drainage way, channel or stream, a stormwater easement or drainage right-of-way of sufficient size to allow for future drainage improvements will be provided. At a minimum, stormwater easements and drainage rights-of-way shall include the entire floodway located within the subdivision. The County Engineer shall determine the extent of all easements, rights-of-way and floodway boundaries within any subdivision.

1004.5 Natural Features. In the subdivision of land, due regard shall be shown to all natural features which if preserved will add attractiveness and stability to the proposed development.

1005.0 Improvements

1005.1 General. Before a final plat is approved the County Board, the subdivider of the land covered by said plat shall execute and submit to the County Board an agreement, which shall be binding on his and their heirs, personal representatives and assigns, that he shall cause no private construction to be made on said platted area or file or cause to be filed any application for building permits for such construction until all improvements required under this Ordinance have been made or arranged for in a manner specified herein.

1005.2 Street Improvements. Streets shall be constructed in accordance with the standards and specifications established by the County Engineer and approved by the County Board.

1005.3 Utilities. All utilities shall be installed according to plans and specifications approved by the County Board.

1005.4 Other Improvements. The following improvements shall be required in all subdivisions.

- A. Monumentation. All subdivision boundary corners, and block corners shall be marked with permanent steel monuments, and the following additional monumentation shall be required:
 - 1. All lot corners shall be marked with metal pins not less than one-half (1/2) inch in diameter and twenty-four (24) inches long, and driven flush or below the finished grade.
 - 2. All section corners and other existing survey monuments recovered shall be noted and accurately described.
 - 3. A registered surveyor shall certify on the final plat that all monuments and pins have been properly installed and recorded.
 - 4. Copies of all survey plats and information shall be delivered to the County Engineer upon approval of final plat.

- B. Lake Access. If there are no public lake access points established within five thousand (5,000) feet of the proposed subdivision and the proposed subdivision is a major subdivision with Lake Frontage, the subdivider shall offer to dedicate a public lake access area suitable for said use to the County. The County Board may require that up to one hundred (100) feet of lake frontage and seven percent (7%) of the area included in the preliminary plat be included in the dedication; or the County Board may determine that no public lake access is required within the

subdivision and decline the offered dedication.

- C. Other Improvements. The County Board may, as a condition of approving the preliminary plat, require additional improvements.

SECTION XVI

ADMINISTRATION

SECTION XVI. ADMINISTRATION

Subdivision 100.0 Administrative Responsibility

101.0 Administrator. The Administrator shall administer the provisions of this Ordinance. The Administrator is a key figure in the administration of the Lincoln County Comprehensive Land Use Plan and Comprehensive Development Ordinance. He or she has the responsibility to see that all the provisions of the Ordinance are properly and fairly enforced. He or she has no discretion to modify the provisions of this Ordinance, but must enforce the Ordinance according to its literal interpretation.

102.0 Duties:

- A. Become familiar with and is able to clearly explain the underlying purpose of this Ordinance.
- B. Receive and review applications for Use Permits and issue Use Permits only if such a use conforms to the provisions of this Ordinance.
- C. Make inspection to discover violations and check for compliance with the Ordinance. If violations are discovered, an order must be sent to the proper individual(s) that such a use must be discontinued and a description of the provisions in the Ordinance that have been violated must be given.
- D. Provide information about the Ordinance upon request.
- E. Advise county officials on administrative matters of the Ordinance. When necessary, provide technical assistance to the County Planning Commission and Board of Adjustment on the interpretation, implementation and amendments to the Lincoln County Comprehensive Development Plan and Ordinance.
- F. Maintain the Official Ordinance Maps and a record of all procedures regarding the Ordinance.
- G. The 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 Administrator shall also maintain a record of the elevation to which structures or elevations and additions to structures are flood-proofed.

Subdivision 200.0 County Planning Commission

201.0 Membership. The Lincoln County Board of Commissioners shall appoint a County Planning Commission that will consist of seven (7) members. One (1) member shall be appointed from each County Commissioner District serving a three-year term, and two (2) members shall be appointed at-large to serve a two-year term.

- A. No voting member of the County Planning Commission shall be an officer or employee of the County.
- B. All members of the Planning Commission shall also serve as the Board of Adjustment.
- C. Five (5) members shall be appointed to three-year terms and the two (2) at-large members appointed to two-year terms except when the Planning Commission is first established. Terms will then be staggered.
- D. When a Planning Commission member leaves in the middle of a term, for any reason, a replacement member shall be appointed to complete the remaining portion of said term.
- E. State law further provides that no voting member of the County Planning Commission shall have received any substantial portion of his or her income from business operations involving the development of land within the County for urban or urban-related purposes during the two (2) years prior to appointment.

202.0 County Planning Commission By-Laws. The County Planning Commission's By-laws, which were in effect prior to the enactment of this Ordinance, are hereby made a part of this Ordinance.

203.0 Decisions. All decisions of the Planning Commission shall require the affirmative vote of a simple majority (quorum) of the members present.

204.0 Duties:

- A. Cooperate with the County Planning and Zoning Administrator in the preparation of a "Lincoln County Comprehensive Land Use Plan" and its recommendation to the County Board of Commissioners for adoption.
- B. Cooperate with the County Planning and Zoning Administrator in the recommendations for plan execution (implementation) in the form of a Lincoln County Comprehensive Development Ordinance and other measures.
- C. Cooperate with the County Planning and Zoning Administrator in the annual review and update of the Lincoln County Comprehensive Land Use Plan and Comprehensive Development Ordinance.

- D. Review and issue Conditional Use Permits.
- E. Conduct public hearings as a result of amendments to the Lincoln County Comprehensive Land Use Plan and Development Ordinance and applications for Conditional Use Permits. The County Planning Commission will keep an accurate, written record of all public hearings.
- F. Recommend approval of subdivisions of land to the Lincoln County Board of Commissioners.
- G. Review any comprehensive plans, official controls and any plans for public land acquisition and development sent to the County for review purposes by a unit of local government or any state or federal agency. In such cases, the Planning Commission would be required to provide the County Board with a written report.

Subdivision 300.0 Board of Adjustment

301.0 Membership:

- A. Shall consist of seven members and be appointed by the County Board. One (1) member shall be appointed from each Commissioner’s District serving a three-year term, and two (2) members shall be chosen at large to serve a two-year term.
- B. At least two (2) members shall reside in the unincorporated area of Lincoln County and all members shall also serve as the County Planning Commission.
- C. No elected officer of the County or employee of the County Board of Commissioners shall serve as a member of the Board of Adjustment.
- D. At least fifty percent (50%) of the Board of Adjustment members shall have three-year terms and at least twenty-five percent (25%) shall have two-year terms.

302.0 Decisions. All decisions of the Board of Adjustment shall require the affirmative vote of a simple majority (quorum) of the members present.

303.0 Duties:

- A. Authority to order the issuance of Variances.
- B. Hear and decide appeals from and review any order, requirement, decision, or determination made by the Administrator. The Board of Adjustment shall keep an accurate, written record of all meeting.

- C. The County Board may assign additional duties and responsibilities to the Board of Adjustment including, but not restricted to:
 - 1. The establishment of rules for conduct of public hearings.
 - 2. The authority to elect a Chairperson and Vice Chairperson from among its members.
- D. The Board of Adjustment shall decide such other issues as are specifically defined in this Ordinance.

304.0 Powers. The Board of Adjustment shall have the authority to order the issuances of variances, hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minn. Stat. § 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future use on an official map and perform such other duties as required by the official controls. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state.

Subdivision 400.0 Board of Appeals

401.0 Membership. The Lincoln County Board of Commissioners shall act as a Board of Appeals for the Lincoln County Comprehensive Development Ordinance.

402.0 Duties. The Board of Appeals shall hear and consider all appeals presented as a result of disapproval made by the Planning Commission and shall make a final ruling on whether to uphold or overturn the disputed decision, based on the factors as reviewed by the Planning Commission and the provisions of the Lincoln County Comprehensive Development Ordinance.

403.0 Meeting Procedures:

- A. All requests for appeal shall be delivered in writing to the County Board Secretary (County Auditor) at least thirty (30) days prior to a regular scheduled County Board meeting for the County Board of Appeals review and decision.
- B. County Board Secretary. The County Board Secretary shall receive and schedule all written appeal requests and shall record all testimony and decisions of the County Board of Appeals.

Subdivision 500.0 Land Use Permits

501.0 A Land Use Permit shall only be issued for those permitted uses identified by the respective Management District in this Ordinance. Use Permits shall be secured prior to:

- A. The construction of a building, structure, or accessory structure; or the addition of any building, structure, or portion thereof, within the unincorporated areas of Lincoln County.
- B. The change of use of a building, accessory structure, or land use; within the unincorporated areas of Lincoln County. A change does not include changes in cropping practices on farm land, conversion of farm buildings from machinery storage to grain storage, conversion of a single family dwelling from owner occupied to a rental unit, or other minor changes.
- C. The placement of fill or excavation of materials within the General Flood Plain, or Shoreland Management Districts. Existing public roads under the control of a unit of government may be maintained and improved without any permit being required under the provisions of this Ordinance.
- D. The installation of new wells; and the installation or alteration of sewage treatment systems.
- E. Prior to granting a Land Use Permit, the Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
- F. In addition:
 - 1. 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 Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
 - 2. 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 authorization shall be deemed a violation of this Ordinance, and is punishable as provided by Subdivision 1000.0 of this Section.

502.0 Application Forms for a Land Use Permit are available at the County Environmental Office.

Subdivision 600.0 Conditional Use Permits

All Conditional Uses, identified by the respective Management Districts in this Ordinance shall be required to obtain a Conditional Use Permit approved by the County Planning Commission.

601.0 Application.

- A. An Application for a Conditional Use Permit shall be obtained from the County Environmental Office.
- B. Applications for Conditional Use Permits shall be made to the Planning and Zoning Administrator together with required fees. The completed Application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Ordinance, including but limited to:
 - 1. Legal description of the property.
 - 2. Site plan drawn at scale showing parcel and building dimensions.
 - 3. Location of all buildings and their square footage.
 - 4. Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.
 - 5. Landscaping and screening plans.
 - 6. Drainage plan.
 - 7. Sanitary sewer and water plan with estimated use per day.
 - 8. Soil type.
 - 9. Such other information as is necessary and reasonable to adequately review the request.

602.0 Notification and Public Hearing.

- A. The Administrator refers the application for a Conditional Use Permit to the County Planning Commission.
- B. Upon receipt in proper form of the application and other required material the County Planning Commission schedules a public hearing and notifies the applicant and affected local units of government (e.g., townships that the proposed project is located in and the municipality which is located within two (2) miles of the proposed project) of the time, place and purpose of the public hearing.

1. Notice will be given in the official newspaper of the County least ten (10) days in advance of said hearing, and notice will be given in the newspapers of municipalities located within the general vicinity of the proposed project
 2. All property owners of record within five hundred (500) feet of the incorporated areas and/or one-quarter (1/4) mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners of unincorporated areas where the conditional use is proposed shall be notified by depositing a written notice in the U. S. mails, postage prepaid, as to the time and place of the public hearing. All municipalities within two (2) miles of the proposed conditional use shall be given proper notice.
- C. The public hearing shall be opened at the time advertised in the notice. The Planning Commission asks that the following rules be observed:
1. The appellant will state his/ her case fully and furnish the Planning Commission with pertinent information concerning the property.
 2. Those who favor the proposed change will be heard first, and those opposed will be heard last.
 3. Each person making a statement will be asked to state his or her name and address.
 4. Testimony should be as factual as possible.
 5. The Planning Commission reserves the right to question any speaker.
 6. All statements or questions shall be directed to the chair.
- D. Prior to approval or disapproval for a Conditional Use Permit, the County Planning Commission must be sure that the proposed development and/ or use meet the following:
1. Be expressly identified in the Ordinance.
 2. Conform to the conditions enumerated in the Ordinance.
 3. Not be injurious to the use and enjoyment of the uses already permitted in the area.
 4. Not impede the normal and orderly development and improvement of the surrounding vacant property.

5. Have or will have adequate utilities, access roads, drainage, and other necessary facilities.
6. Assure that adequate measures will be taken to prevent offensive odor, fumes, dust, and noise so that none of these will constitute a nuisance.
7. Prior to granting a Conditional Use Permit, the County Planning and Zoning Administrator and Planning Commission shall determine that the applicant has obtained all necessary State and Federal permits.

603.0 Approval, Disapproval or Modification. The County Planning Commission shall make its decision upon the application. The County Planning Commission shall report its findings with respect thereto and all facts in connection therewith, and may designate conditions and require guarantees deemed necessary for the protection of the public interest. If a Conditional Use Permit request is denied by the County Planning Commission, the petitioner may appeal the decisions to the County Board of Appeals.

604.0 Findings. No conditional use shall be granted by the County Planning Commission Board of Appeals unless said Commission shall find:

- A. That 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.
- B. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area.
- C. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- D. That adequate measures have been or will be taken to provide sufficient off street parking and loading space to serve the proposed use.
- E. That 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.

605.0 Conditional Use Permits within Floodplains and Shorelands.

- A. A copy of all notices of any public hearing, or where a public hearing is not required, a copy of the application to consider issuance of a Conditional Use Permit in the Flood Plain and Shoreland Management Districts shall be sent so as to be received by the Commissioner at least ten (10) days prior to such hearings or

meeting to consider issuance of a Conditional Use Permit. A copy of the decision shall be forwarded to the Commissioner within ten (10) days of such action.

B. 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 County Planning Commission for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the floodway or flood fringe.

1. 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.
2. Plan (surface view) showing elevation 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.
3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.

C. One (1) copy of the above information shall be transmitted to a designated engineer, other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations NR 86 – 87 shall be followed in this expert evaluation. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood.
2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over-bank areas.
3. Compute the floodway necessary to convey the regional flood without increasing flood stages more than five-tenths (0.5) feet. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

D. Based upon the technical evaluation of the designated engineer or expert, the County Planning Commission shall determine whether the proposed use is in the floodway or flood fringe and the Regulatory Flood Protection Elevation at the site.

- E.** Procedures to be followed by the County Planning Commission in passing Conditional Use Permit Application within the Flood Plain Districts require the applicant to furnish such of the following information and additional information as deemed necessary by the County Planning Commission for determining the suitability of the particular site for the proposed use:
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.
 3. Transmit one (1) copy of the information described in subsections above 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.
 4. Based upon the technical evaluation of the designated engineer or expert, the County Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- F.** Flood-proofing measures in accordance with Section 209 through 1406 of the 1972 edition of “Flood-Proofing Regulations” (FPR), as developed by the Office of the Chief of Engineers, U.S. Army, Washington, D.C., a copy of which is hereby incorporated by reference and declared to be a part of this Ordinance. Where definitions of terms set forth in Section 301 of FPR conflict in meaning with the definitions of terms set forth in this ordinance, the latter shall prevail. The applicant shall be required to 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.
- G.** Factors upon which the decision of the County Planning Commission shall be based. In passing upon Conditional Use applications, the County Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, and:
1. The danger to life and property due to increased flood heights or velocities caused by encroachments.

2. The danger that materials may be swept onto other lands or downstream to the injury of others.
 3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 5. The importance of the services provided by the proposed facility to the community.
 6. The requirements of the facility for a water front location.
 7. The availability of alternative locations not subject to flooding for the proposed use.
 8. The compatibility of the proposed use with existing development and development anticipated in the future.
 9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
 12. Such other factors which are relevant to the purposes of this Ordinance.
- H. Based upon testimonies at the public hearing and the possible effect the proposed use will have on the Lincoln County Comprehensive Land Use Plan and the development of the area, the County Planning Commission will either approve or disapprove the Conditional Use Permit. If the County Planning Commission cannot make a final decision to either approve or disapprove the Conditional Use Permit within thirty (30) days from the date of the public hearing due to extenuating circumstances, an additional sixty (60) days may be granted to reach a final decision provided that the applicant is notified of the delay and extenuating circumstances within thirty (30) days of the public hearing. If the Planning Commission cannot reach a decision, the requested use will be considered approved.
- I. If granted, a certified copy of a Conditional Use Permit will be filed with the County Register of Deeds.

- J. Any false or misleading information provided by the applicant/proposer during a public hearing for a Conditional Use Permit shall be just cause for automatic revocation of approved conditional use permit or variance. Upon satisfactory amendments to their proposal, the applicant may reapply after ninety (90) days of the revocation.

606.0 Revocation of Conditional Use Permit. A violation of any condition set forth in a Conditional Use Permit shall be a violation of this Ordinance and automatically terminate the permit.

607.0 Discontinuance. A Conditional Use Permit shall become void one (1) year after being granted by the Planning Commission or Board of Appeals unless used or if discontinued for a period of ninety (90) days.

608.0 Recording.

- A. The original copy of any Conditional Use Permit shall be filed with the County Recorder for record. The Conditional Use Permit shall include the legal description of the property involved.
- B. The Zoning Administrator shall be responsible for recording with the County Recorder, any Conditional Use Permit.

Subdivision 700.0 Variances

701.0 Application Procedure. An Application form will be supplied by the Administrators Office.

- A. An application for a variance shall be completed and filed with the Administrator; the application shall be accompanied by development plans showing such information as the Administrator may reasonably require for purpose of this Ordinance. The plans need not meet engineering or construction details so long as they contain sufficient information for the Board of Adjustment to determine whether the proposed variance will meet all applicable development standards if the variance is granted. In all cases the application shall include:
 1. Name and address of the applicant.
 2. The legal description of the property involved in the request for the variance.
 3. The names and addresses of owners of the property or any persons having a legal interest

4. A site plan showing all pertinent dimensions, buildings, and significant natural features having an influence on the variance.
 5. The variance request and a statement outlining the unique or particular situation or peculiar hardship involved in creating the need for a variance.
- B.** The Board of Adjustment shall hold at least one public hearing on any application for a variance or appeal. Notice of the purpose, time and place of such public circulation in the town, municipality or other areas concerned and in the official newspaper of the county at least ten (10) days prior to the date of the hearing. Written notice of such public hearing shall be mailed to all property owners of record within five hundred (500) feet of the property, the affected Board of Town Supervisors, and the Municipal Council of any municipality within two (2) miles of the affected property.
- C.** All decisions by the Board of Adjustment in granting variance or in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within thirty (30) days, after receipt of notice of the decision to the district court in the county in which the land is located on questions of law and fact.
- D.** No application for a variance that has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of said order of denial except on the grounds of new evidence or proof of change on conditions found to be valid.
- E.** A violation of any condition set forth in granting a variance shall be in violation of this Ordinance and automatically terminates the variance.

702.0 Hearing Conduct and Findings

- A.** The public hearing shall be opened at the time advertised in the notice. The Board of Adjustment shall ask that the following rules be observed:
1. The appellant will state his/her case fully and furnish the Board of Adjustment with pertinent information concerning the property.
 2. Those who favor the proposed change will be heard first, and those opposed will be heard last.
 3. Each person making a statement will be asked to state his or her name and address.
 4. Testimony should be as factual as possible.
 5. The Board of Adjustment reserves the right to question any speaker.

6. All statements or questions shall be directed to the chair.
- B. In exercising its authority to review any order, requirement, decision, or determination made by any administrative official the Board shall not grant any appeal or variance unless they find they meet all the following facts at the hearing. The applicant shall present to the Board of Adjustment a statement and evidence in such form as to be sustained with evidence that:
1. The property cannot be put to a reasonable use if used under the conditions allowed by the Ordinance.
 2. The conditions causing the hardships are unique to the property and not created by the landowner.
 3. The granting of the Variance will not essentially alter the character of the locality.
 4. The granting of the Variance is consistent with the Lincoln County Comprehensive Development Plan.
 5. That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.
 6. That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant, and that the granting of the variance will not alter the essential character of the locality.
- C. In the case of variances, they shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control.

703.0 Variances in Shoreland. Variances may only be granted in accordance with Minnesota Stat. § Chapter 394, as applicable. A variance may not circumvent the general purposes and intent of this Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

- A. The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in this Ordinance shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
 - 1. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.
 - 2. Notifications to the Department of Natural Resources.
 - a. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least (10) ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
 - b. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

704.0 Variance in Floodplains. A variance in a floodplain means a modification of a specific permitted development standard required in Section III to allow an alternative development standard not stated as acceptable in the official control but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in the County's respective planning and zoning enabling legislation.

- A. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of Section III 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 Counties. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.

- B. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.
- C. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commission of Natural Resources within ten (10) days of such action.
- D. Appeals from any decision of the County may be made, and as specified in this Unit of Government's Official Controls and also Minnesota Statutes.
- E. Flood Insurance Notice and Record Keeping. The 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 insurance up to amounts as high as twenty-five dollars (\$25) for one hundred dollars (\$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. The County shall maintain a record of all variances 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.

705.0 Recording of Variances. A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement, decisions of determination by an administrative official or a request for a variance shall be filed with the County Recorder for record. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Administrator shall be required to meet the requirements of this Subdivision.

706.0 Revocation. Any false or misleading information provided by the applicant/ proposer during a public hearing for a Variance shall be just cause for automatic revocation of any approved conditional use permit or variance. Upon satisfactory amendments to their proposal, the applicant may reapply after ninety (90) days of the revocation.

Subdivision 800.0 Non-Conforming Uses

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

- A. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
- B. If any nonconforming use or structure is destroyed by any means, including floods, to the extent of fifty percent (50%) or more of 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 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.
- C. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) 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 County's initial flood plain controls must be calculated into today's current cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then the structure must meet the standards for new structures depending upon whether it is in the Floodway or Flood Fringe, respectively.
- D. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Administrator in writing of instances of nonconforming uses that have been discontinued for a period of twelve (12) months.

Subdivision 900.0 Amendments

901.0 This Ordinance may be amended whenever the public necessity and general welfare requires such amendment by following the procedure specified in this Section.

- A. Proceeding for Amendment of this Ordinance shall be initiated by:
 - 1. A petition of the owner or owners of the actual property.
 - 2. A recommendation of the County Planning Commission.
 - 3. By action of the Board of County Commissioners.

902.0 The procedures for an Amendment shall be as follows: The County Board may amend the procedures, standards, requirements, and other provisions of this Ordinance, upon recommendations of the County Planning Commission. The County Planning Commission shall hold a public hearing on the proposed amendment prior to recommending action to the County Board.

- A. Amendment in the Shoreland and Flood Plain Management Districts must first be approved by the Commissioner or the Department of Natural Resources prior to adoption.
- B. When amending the Ordinance, refer to Minnesota Statutes § 375.51, § 394.25 and § 394.26 (Amendments 4/83).

903.0 Fees. To defray the administrative cost of processing requests for an amendment to this Ordinance, a fee shall be paid by the petitioner. Such fee shall be established by the Board of County Commissioners.

Subdivision 1000.0 Legal Interpretation

It will be the responsibility of the County Attorney to interpret the legality of this Ordinance and its provisions.

Subdivision 1100.0 Violations, Penalties, and Enforcement

1101.0 Violations and Penalties. Any person, firm, or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions thereof, shall be guilty of a misdemeanor and, upon conviction thereof, may be punished by a fine or imprisonment or both. Each day that a violation continues shall constitute a separate offense.

1102.0 Enforcement. This Ordinance shall be administered and enforced by the Administrator, who is hereby designated the enforcing officer.

- A. In the event of a violation or a threatened violation of this Ordinance, the Board of County Commissioners or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.
- B. Any taxpayer(s) of the County may institute mandamus proceedings in the District Court to compel specific performance by the proper officials of any duty required by this Ordinance.

SECTION XVII

RESOLUTION

SECTION XVII. RESOLUTION

Subdivision 100.0 Repealer

- 101.0 Repealer.** Lincoln County Ordinance # 24, titled Lincoln County Floodplain Ordinance August 20, 1991, is hereby repealed and replaced with the adoption of this ordinance.
- 102.0 Repealer.** Lincoln County Ordinance # 27, titled Lincoln County Shoreland Ordinance December 17, 1992, is hereby repealed and replaced with the adoption of this ordinance.
- 103.0 Repealer.** Lincoln County Ordinance # 28, titled the Lincoln County Solid Waste Ordinance June 15, 1993, is hereby repealed and replaced with the adoption of this Ordinance.
- 104.0 Repealer.** Lincoln County Ordinance # 34, titled Lincoln County Feedlot Ordinance May 4, 1999, is hereby repealed and replaced with the Adoption of this Ordinance.
- 105.0 Repealer.** Lincoln County Ordinance #35, titled Lincoln County Comprehensive Development Ordinance December 19, 2000, is hereby repealed and replaced with the Adoption of Ordinance #36
- 106.0 Repealer.** Lincoln County Ordinance #36, titled Lincoln County Comprehensive Development Ordinance August 7, 2001, is hereby repealed and replaced with the Adoption of Ordinance #37.
- 107.0 Repealer.** Lincoln County Ordinance #37, titled Lincoln County Comprehensive Development Ordinance February 5, 2002, is hereby repealed and replaced with the Adoption of Ordinance #38.
- 108.0 Repealer.** Lincoln County Ordinance #38, titled Lincoln County Comprehensive Development Ordinance September 7, 2004, is hereby repealed and replaced with the Adoption of Ordinance #39.
- 109.0 Repealer.** Lincoln County Ordinance #39, titled Lincoln County Comprehensive Development Ordinance December 2, 2004 is hereby repealed and replaced with the Adoption of Ordinance #40.

Subdivision 200.00 Effective Date

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

Passed and approved this ____ day of _____ 2009.

Chairman, Board of Commissioners

ATTEST: _____, County Auditor

APPENDIX

A-F

APPENDIX E - COLLECTION AND TRANSPORTATION OF WASTE

APPENDIX E.101: State Rule Adopted. The collection and transportation of waste shall meet all of the requirements of Minnesota Rules, Chapters 7001, 7035 and 7045. Minnesota Rules, Chapter 7001, 7035, and 7045 are hereby adopted by reference as part of this Ordinance.

APPENDIX E.102: Applicability. This section shall apply to all persons seeking to operate a vehicle for waste management within Lincoln County.

APPENDIX E.103: A vehicle transporting waste from a single household or a vehicle hauling waste from outside of Lincoln County to another place outside of Lincoln County is exempt from permit requirements. Vehicles that are transporting only junk motor vehicles, concrete, brick, bituminous concrete, trees, or structural metals are also excluded from the requirements of this section. All other vehicles transporting waste within Lincoln County shall possess one of the following permits:

E.103.1. Transportation Permit. Any person, firm or corporation that transports waste via highways and roads in Lincoln County must obtain a Transportation Permit every two years.

E.103.2. Collection/Transportation Permit. Any person, firm, or corporation that collects waste within Lincoln County and transports waste via highways and roads in Lincoln County must annually obtain a Collection/Transportation Permit.

Application for Transportation and Collection/Transportation Permits shall be made upon forms provided by the County.

APPENDIX E.104: Transportation Permit Requirements.

E.104.1. Submittals. Persons, firms or corporations intending to transport waste in Lincoln County shall submit the following information.

- A. The name and address of the applicant.
- B. A description of each vehicle to be used for waste transportation, including the vehicle identification, make, model, year, the capacity of the body or the capacity and number of roll-offs.
- C. The date of the last State of Minnesota safety inspection of the vehicle.
- D. The location and address describing the place where the applicant is storing his equipment/vehicle.
- E. Current copy of certificate of insurance, indicating proper insurance coverage for the period of the permit, including the name of the insurance carrier, its agent, policy number, and effective dates.

- F. The applicant shall submit a description of the route(s) to be followed by the waste transportation vehicles during the transportation of waste.
 - G. The estimated weekly weight or volume of waste transported. Include the destination of the waste.
 - H. A statement by the applicant that shows vehicle operators possess proper Minnesota drivers licenses.
 - I. Other information the County may reasonably require including applicant's signature and appropriate fees for the permit.
- E.104.2.** Inspection. The County may inspect and approve any waste transportation vehicles prior to giving approval.

APPENDIX E.105: Collection/Transportation Permit Requirements,

- E.105.1.** Submittals. Persons, firms or corporations intending to collect and transport waste in Lincoln County shall submit the following information.
- A. The name and address of the applicant.
 - B. A description of each vehicle to be used for waste collection and transportation, including the vehicle identification, make, model, year, the capacity of the body or the capacity and number of roll-offs.
 - C. The date of the last State of Minnesota safety inspection of the vehicle.
 - D. The location and address describing the place where the applicant is storing his equipment/vehicle.
 - E. Current copy of certificate of insurance, indicating proper insurance coverage for the period of the permit, including the name of the insurance carrier, its agent, policy number, and effective dates.
 - F. The applicant shall submit information to the County regarding applicant's type and quantity of waste collected, and such other information as the County may require.
 - G. A copy of approvals if required by the governing body of any municipality to be served.
 - H. A statement by the applicant that shows vehicle operators possess proper Minnesota drivers licenses.
 - I. Other information the County may reasonably require including applicant's signature and appropriate fees for the permit.

E.105.2. Inspection. The County may inspect and approve any waste collection and transportation vehicles prior to giving approval.

APPENDIX E.106: Applicant Review. After receiving a completed application, the County shall have 30 days to either grant or deny the permit. If an applicant is not granted a permit, the applicant shall be notified in writing of the reasons therefore. Submission of false information may constitute grounds for denying a permit or permit renewal, or suspension by revocation of an issued permit.

APPENDIX E.107: Operation and Maintenance Requirements.

E.107.1. Equipment Requirements. All waste collection and transportation vehicles shall be easily cleanable, leak-proof, and be covered with metal, canvas, or fish net type material made for this purpose.

E.107.2. Maintenance. The permittee shall maintain all waste collection and transportation vehicles in a safe and sanitary manner, and provide brooms and shovels on each vehicle for the purpose of cleaning spilled material. All safety equipment including but not limited to horns, lights, reflectors shall be operable.

E.107.3. Protecting Private Property. The permittee shall take reasonable care to protect the property of customers being served. The permittee shall be responsible for any damage or spillage of waste as a result of his action.

E.107.4. Smoking, Smoldering, or Burning Waste. The permittee shall not collect and transport waste materials that are smoking, smoldering or burning.

E.107.5. Dumping in an Emergency. The permittee shall be responsible for the cleanup of any waste that must be dumped in an emergency. The operator of the vehicle shall immediately notify the County and the appropriate law enforcement agency of such a dumping and clean the area within a time limit set by the County.