



# ZONING ORDINANCE

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## **ARTICLE 1 TITLE**

This Ordinance shall be known and referred to as the “Murray County Zoning Ordinance”; when referred to herein; it shall be known as “this Ordinance.”

## **ARTICLE 2 PURPOSE, AUTHORITY, AND JURISDICTION**

### **SECTION 201. STATEMENT OF PURPOSE**

This Ordinance is adopted for the purposes of:

1. Protecting and promoting the public health, safety, and general welfare.
2. Promoting and providing for the orderly development of agricultural, residential, commercial, industrial, recreational and public areas and land uses.
3. Preserving agricultural land and animal agriculture.
4. Conserving natural and scenic areas of the County.
5. Conserving natural resources and open spaces.
6. Providing official controls to implement the goals and policies included in the Murray County Comprehensive Land Use Plan.

### **SECTION 202. STATUTORY AUTHORIZATION**

This Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 394; Minnesota Statutes, Chapter 103B; Minnesota Statutes, Chapter 116; Minnesota Statutes, Chapter 103F; Minnesota Statutes, Chapter 103G; or successor statutes and Minnesota Rules, Chapter 7020; Minnesota Rules, Chapters 7080-7083; Minnesota Rules, Chapter 4410; or successor rules.

### **SECTION 203. JURISDICTION**

The jurisdiction of this Ordinance shall apply to all areas in Murray County outside the incorporated limits of municipalities, except those areas in Article 12, Section 1214.2; and with the exception of the General Regulations in Article 17.

## **ARTICLE 3 GENERAL PROVISIONS**

### **SECTION 301. ABROGATION AND GREATER RESTRICTIONS**

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

### **SECTION 302. SEVERABILITY**

If any article, section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

### **SECTION 303. INTERPRETATION**

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

### **SECTION 304. COMPLIANCE**

No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose or in any manner which is not in conformity with this Ordinance.

No permit or other authorization pursuant to this Ordinance shall be issued by the Department or County Board if the owner or applicant has unresolved violations of the provisions of this Ordinance unless and until the property owner or applicant is in compliance with the Ordinance provisions or has signed a legally binding agreement with Murray County to correct said violation.

## ARTICLE 4 RULES AND DEFINITIONS

### SECTION 401. RULES

For purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

1. The term “person” includes a firm, association, partnership, company corporation, any individual, joint stock association or body politic and includes any trustee receiver, assignee or other similar representative thereof.
2. The terms “shall” and “must” are mandatory and not discretionary, the term “may” is permissive.
3. Terms used in the present tense shall include the future; and terms used in the singular shall include the plural, and the plural the singular.
4. The term “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.
5. Terms used in this Ordinance shall be given their common usage and ordinary meaning if not defined herein Unless defined in this Ordinance, Minnesota Rules Chapters 7080-7083, or Minnesota Statutes 115.55, all terms used in this Article shall be given their plain and ordinary meaning.

### SECTION 402. DEFINITIONS

For the purposes of this Ordinance, the following definitions shall apply:

1. **Accessory Structure.** A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. Accessory structures shall not be used for human habitation.
2. **Accessory Use.** A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
3. **Adult Bookstore.** A building or portion of a building used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, digital recordings, or motion picture film if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” or the barter, rental, or sale of instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
4. **Adult Cabaret.** A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas”.
5. **Adult Massage Parlor.** A massage parlor or health club 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.”



- 6. Adult Mini Motion Picture Theater.** A building or portion of a building with a capacity of less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors 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.
- 7. Adult Modeling Studios.** 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.
- 8. Adult Motion Picture Theater.** A building or portion of a building with a capacity of more than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors 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.
- 9. Adult Novelty Business.** A business which has as a principal activity the sale of devises which stimulate human genitals or devices which are designed for sexual stimulation.
- 10. Adult Steam Room/Bathhouse Facility.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- 11. Adult Uses.** Adult uses include, but are not limited to, adult bookstores, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult health/sport clubs, adult cabarets, 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” or “specified anatomical areas” which are capable of being seen by members of the public.
- 12. Agency.** The Minnesota Pollution Control Agency or MPCA.
- 13. Agriculture Use.** The use of land and associated structures for the growing, production and/or harvesting of crops, livestock, livestock products, limited agriculture, lands in a government conservation program and incidental and accessory activities and uses, in accordance with generally accepted practices and all related laws and regulations, including but not limited to the following:
  - A. Crops, including but not limited to: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, sugar beets, edible beans, and wheat;
  - B. Livestock, including but not limited to: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds, other game such as deer and elk, llamas, buffalo, and other animals including ostrich, emu, rabbits, mink and other exotic animals;
  - C. Livestock products, including but not limited to: milk, butter, cheese, eggs, meat, and fur;

- D. Limited agriculture, including but not limited to: horticulture or nursery stock, fruit, orchards, vegetables, forage grains and bee products;
  - E. Lands enrolled in a government conservation program.
  - F. Incidental and accessory activities and uses, including but not limited to:
    - 1) Pasture, woodland or meander land held and/or operated in conjunction with other agricultural uses described in this definition;
    - 2) On-site constructing and maintaining of equipment and facilities used on the premises for the activities described in this definition;
    - 3) Preparing, packing, treating, storing or disposing of the products or by-products raised on the premises described in this definition;
    - 4) Retail selling by the producer of products raised on the premises described in this definition;
  - G. Uses defined herein as Kennels, Salvage Yards or Extended Home Occupations are not Agricultural Uses. They are separate businesses and regulated as such herein.
14. **Agricultural Service Business.** A service that relies on an agricultural related customer base.
15. **Alcohol Manufacturing.** Brewing, distilling, or other manufacturing of alcohol intended for wholesale or retail sale for the end use of human consumption in beer, wine or spirits.
16. **Alteration.** To change or make different; to remodel or modify.
17. **Animal Feedlot.** A facility as defined by Minnesota Rules, part 7020.0300, or successor Rules.
18. **Animal Manure.** Poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, or other materials.
19. **Animal Unit (A.U.).** A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. Based on Minnesota Rules Chapter 7020, incorporated by reference as amended by the Minnesota Pollution Control Agency.
20. **Antenna.** Any structure or device used for the purpose of collecting or radiating electromagnetic waves, microwave signals, including but not limited to directional antennas, such as panels, microwave dishes, satellite dishes, and omni-directional antennae, such as whip antennae.
21. **Applicant.** A person, corporation, or other legal entity recognized by law who applies for a variance, zoning permit, conditional use permit, or other land use permit.
22. **Associated Accessory Retail Sales.** The retail sale of products such as but limited to corkscrews, wine totes, wine buckets, wine glasses, decanters, small wine racks, small uncorking and preservation machines, small wine barrels, and literature. Other retail sale products may include items such as, but not limited to: trademark items, items which promote the region or the wine industry, other regional value-added agricultural products, art, prepackaged foods and cheese. These sales must be clearly accessory to the primary use.

23. **Attached.** Addition is integrated visually, structurally and architecturally with the principal structure, contains a common roof with similar design to the principal structure, and permits access between the principal structure and the addition either internally or under the common roof. If there is a connection between the addition and the principal structure which is not enclosed but is comprised solely of the common roof, then the addition shall be considered part of the principal structure if the length of the connection does not exceed the length of the addition by more than 50 percent or 20 feet, whichever is less. Otherwise, the addition shall be considered a detached accessory structure.
24. **Authorized Representative.** An employee of the Murray County Environmental Services Office who is licensed as a "Qualified Employee".
25. **Base Flood.** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
26. **Base Flood Elevation.** The elevation of the "regional flood". The term "base flood elevation" is used in the flood insurance survey.
27. **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.
28. **Bed and Breakfast.** An owner occupied single family dwelling unit in which not more than five (5) rooms are rented on a nightly basis for periods of seven (7) or fewer consecutive days by the same person. Meals may or may not be provided to residents or overnight guests.
29. **Bedroom.** Means, for the sole purpose of estimating design flows from dwellings, an area that is:
- A. A room designed or used for sleeping; or
  - B. A room or area of a dwelling that has a minimum floor area of 70 square feet with access gained from the living area or living area hallway. Architectural features that affect the use as a bedroom under this item may be considered in making the bedroom determination.
30. **Berm.** A mound of earth, or the act of pushing earth into a mound.
31. **Best Management Practices.** Best Management Practices means practices, techniques, and measures, which prevent or reduce water pollution from non-point sources by using the most effective and practicable means of achieving water quality goals. Best management practices include, but are not limited to, official controls, structural and non-structural controls, and operation and maintenance procedures.
32. **Bluff.** Bluff means a topographic feature such as a hill, cliff, or embankment having the following characteristics:
- A. Part or all of the feature is located in a shoreland area;
  - B. The slope rises at least 25 feet above the Toe of the Bluff;
  - C. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the toe of the bluff averages thirty percent (30%) or greater, except that an area with the average slope of less than eighteen percent (18%) over a distance of at least fifty (50) feet shall not be considered part of the bluff; and

D. The slope drains toward the water body.

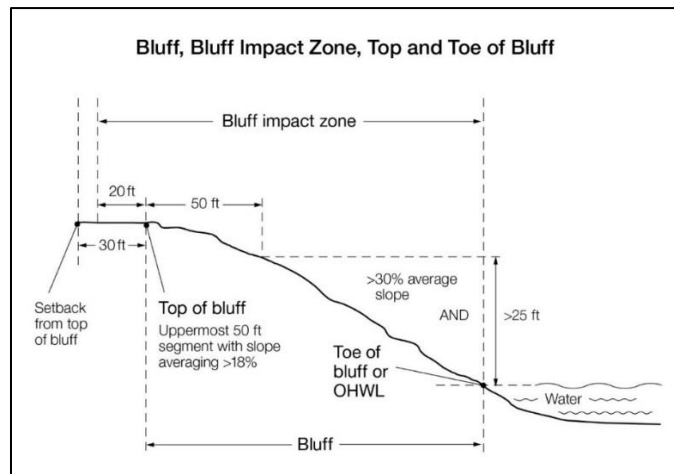


Figure 1 Diagram of Bluff, Bluff Impact Zone and Toe of Bluff

- 34. Bluff Impact Zone.** Bluff Impact Zone means a bluff and land located within 20 feet from the top of a bluff.
- 35. Bluff, Toe of.** The lower point of a 50-foot segment with an average slope exceeding eighteen percent (18%) or the ordinary high water level, whichever is higher
- 36. Bluff, Top of.** For the purposes of measuring setbacks, the higher point of a fifty (50)-foot segment with an average slope exceeding eighteen percent (18%).
- 37. Boathouse.** A facility as defined by Minnesota Statutes Section 103G.245, or successor statutes.
- 38. Board.** The Murray County Board of Commissioners.
- 39. Board of Adjustment.** The Murray County Board of Adjustment as created by this Ordinance and appointed by the Board.
- 40. Buffer.** A vegetative feature as defined by Minnesota Statutes, Section 103F.48, or successor statutes.
- 41. Buildable Lot Area.** The minimum contiguous area remaining on a lot or parcel of land after all setback requirements, bluffs, areas with slopes greater than twenty-five percent (25%), all easements and rights-of-way, historic sites, wetlands, floodways and lands below the ordinary high-water level of public waters are subtracted for the purpose of placement of structures.
- 42. Building.** Any structure, either temporary or permanent, for the shelter, support or enclosure of persons, animals, chattel or property of any kind; and when separated by party walls without openings, each portion of such buildings so separated shall be deemed a separate building.
- 43. Building Line.** A line parallel to a lot line, the ordinary high-water level, or a road right-of-way at the required setback beyond which a structure may not extend.
- 44. Business.** Any occupation, employment, or enterprise wherein merchandise is exhibited or sold, or services are offered for compensation.
- 45. Campground.** A development that is used for the purpose of providing sites for non-permanent overnight use by campers using tents, trailers, recreation camping vehicles or other temporary shelters.

- 46. Carport.** Automobile shelters having one or more sides open.
- 47. Cemetery.** Property used for the interment of the dead.
- 48. Certificate of Compliance.** A document, written after a SSTS compliance inspection, certifying that a system is in compliance with applicable requirements at the time of the inspection.
- 49. Church.** A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.
- 50. Cluster Development.** A pattern of subdivision development that places housing units into compact groupings.
- 51. Clustering or Clustered.** A development pattern and technique whereby structures or building sites are arranged in close proximity to one another in non-linear groups so as to make efficient and visually aesthetic use of the natural features of the landscape.
- 52. Co-Location.** The placement of wireless telecommunication antennae by two (2) or more service providers on a tower, building or structure.
- 53. Commercial Speech.** Speech advertising a business, profession, commodity, service, or entertainment.
- 54. Commercial Use.** The principal use of land or buildings for sale, lease, rental, or trade of products, goods, and services.
- 55. Commercial Wireless Telecommunication Services.** Licensed commercial wireless telecommunication services, including cellular, Personal Communication Services (PCS), Specialized Mobile Radio (SMR), Enhanced Specialized Mobile Radio (ESMR), paging, Local Multipoint Distribution System (LMDS), and similar services.
- 56. Compliance Inspection.** An evaluation, investigation, inspection, or other such process for the purpose of issuing a certificate of compliance or notice of noncompliance for SSTS.
- 57. Comprehensive Plan.** The Murray County Comprehensive Land Use Plan, as adopted and amended.
- 58. Common Open Space.** A portion of a development site that is permanently set aside for public or private use, is held in common ownership by all individual owners within a development and will not be developed. Common open space shall include wetlands, upland recreational areas, wildlife areas, historic sites and areas unsuitable for development in their natural state.
- 59. Conditional Use.** A conditional use shall have the meaning given in Minnesota Statutes, Section 394.22, subdivision 7; or successor statutes.
- 60. Condominium.** A condominium shall have the meaning given in Minnesota Statutes, Chapter 515; or successor statutes.
- 61. Contiguous.** The following rules shall apply when determining contiguous property:
- A. Tracts that are geometrically touching at any one point are contiguous.
  - B. Contiguous tracts which cross political subdivision boundaries remain contiguous.
  - C. Tracts purchased under separate documents remain individual and unique.

- D. Except when determining lot coverage, property that would be continuous under these rules, but for the fact that the property is separated by a public or private road, driveway, thruway, etc., shall be deemed to be contiguous.
- 62. Controlled Access Lot.** A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.
- 63. County.** Murray County, Minnesota.
- 64. Critical Facilities.** Facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury.
- 65. Cul-de-sac.** A temporary or permanent road terminating at one end, which is circular in design, without connecting with another road.
- 66. Deck.** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a dwelling unit, principal use or site and extending more than three (3) feet above ground.
- 67. Deck/Patio, Observation.** A free-standing deck/patio that is allowed within the shore impact zone and is not accessible from any other structure.
- 68. Department.** The Murray County Environmental Services Office.
- 69. Development.** Any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 70. DNR Commissioner.** The Commissioner of the Minnesota Department of Natural Resources.
- 71. Drinking Water Supply Management Areas (DWSMAs).** The technically defined wellhead protection area, including identifiable landmarks as boundaries. This is the area on the land covering the groundwater that could flow to the well within ten (10) years.
- 72. Driveway.** A private road or path that is located on the lot that it services and which affords vehicle access to a public road.
- 73. Dwelling site.** A designated location for residential use by one (1) or more persons using temporary or movable shelters, including camping and recreational vehicle sites.
- 74. Dwelling Unit.** Any structure or portion of a structure, or other shelter designed as short or long-term living quarters for one (1) or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- A. Dwelling, farm. A dwelling located on a farm, which the residents of said dwelling owns, operates or is employed thereon.
  - B. Dwelling, non-farm. A dwelling located on a parcel of land contiguous to or surrounded by farmland which is under separate ownership and which the resident of said dwelling neither operates nor is employed thereon.
  - C. Dwelling, single family. A free standing (detached) residence designed for/or occupied by one (1) family only.

D. Dwelling, Duplex, Triplex, and Quad. A dwelling structure on a parcel, having two (2), three (3) or four (4) units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

**75. Earthen Storage Basin.** (See Manure Storage Area)

**76. Easement.** The right of a person, government agency or public utility company to use public or private land, owned by another, for a specific purpose.

**77. Enclosed.** An area under a roof which has solid walls at least four (4) feet in height around its entire circumference, or which is one-hundred percent (100%) screened from floor to ceiling, such that the enclosed inside space is clearly separated from the outside space.

**78. Entrance Steps.** Steps leading up to an entrance to a structure with a landing not exceeding four (4) feet by six (6) feet.

**79. EPA.** The United States Environmental Protection Agency.

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

**81. Essential Services.** Underground or overhead gas, electrical, communication, steam or water distribution systems owned or operated by public or private utilities or governmental agencies or commissions, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, substations, telephone booths and accessories in connection therewith, but not including buildings.

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

**83. Extractive Use.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51, or successor statutes.

**84. FAA.** Federal Aviation Administration.

**85. Facility Rental Events.** An event where the property owner is or is not monetarily compensated for the use of the site and facilities, such as weddings, parties, company picnics, birthdays, reunions, private parties, or other social gatherings.

**86. Family.** An individual, or two (2) or more persons, each related by blood, marriage, adoption, foster care arrangement or court order, living together as a single housekeeping unit or a group of not more than six (6) persons not related, maintaining a common household, exclusive of servants.

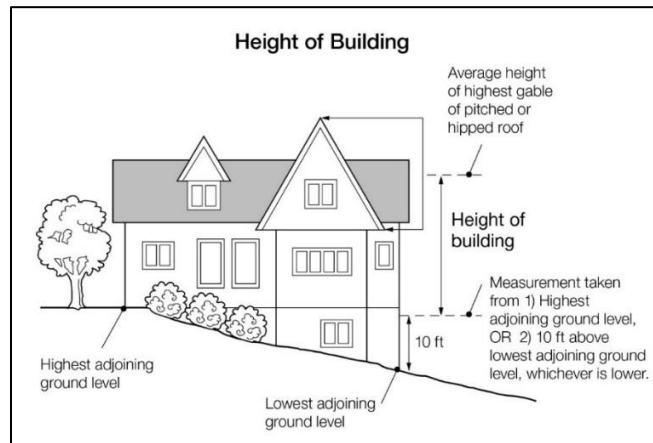
- 87. Farm.** A tract of land which is principally used for agricultural activities such as the production of cash crops, livestock, poultry, or fish farming. Such farms may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm.
- 88. Farm Fence.** A fence as defined by Minnesota Statutes Section 344.02, Subdivision 1 (a)-(d), or successor statutes. An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows such as chain link fences and ridged walls, are regulated as structures under this ordinance.
- 89. Farm Winery.** Farm Winery shall have the meaning given in Minnesota Rules, part 9502.0315, Subpart 11; or successor rules.
- 90. FCC.** Federal Communications Commission.
- 91. Feedlot.** Lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these rules. Other definitions relating to feedlots as regulated in Article 24 of this Ordinance are found in Minnesota Pollution Control Agency's Rule Chapter 7020, or successor rules. These rules are adopted by reference in this Ordinance.
- 92. Feedlot, Change in Operation.** An increase beyond the permitted maximum number of animal units, or increase in the number of animal units which are confined at an unpermitted animal feedlot requiring a construction investment, or a change in the construction operation of an animal feedlot that would affect the storage, handling, utilization or disposal of animal manure.
- 93. Feedlot, Confinement Facility.** A type of feedlot where the animals are confined and fed under a roof or in a building.
- 94. Feedlot, Construction Report.** A report prepared and signed by the design engineer or feedlot operator containing an assessment of whether the completed feedlot conforms to the design plans and specifications submitted to the County Feedlot Officer or MPCA.
- 95. Feedlot, Construction Short Form Permit.** A permit issued for an animal feedlot or manure storage area according to Minnesota Rules Chapter 7020.0355 to 7020.0535, or successor rules.
- 96. Feedlot, Corrective or Protective Measures.** A practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal feedlot to a level in conformity with MPCA rules.
- 97. Feedlot, Covered Lagoon or Covered Basin.** An earthen constructed manure holding structure either totally covered with a minimum of a six-inch thick layer of straw or other similar material, a synthetic or floating man-made cover which continually covers the entire lagoon or earthen basin area, or a wooden, concrete, or glass-lined steel structure totally enclosing and covering the lagoon or earthen basin.
- 98. Feedlot, Domestic Fertilizer.** Animal manure that is input on or injected into the soil to improve the quality or quantity of plant growth; or is used as compost, soil conditioners, or specialized plant beds.



- 99. Feedlot, Existing.** Any animal feedlot in existence on or before May 8, 2007 and has had livestock in the past five (5) years.
- 100. Feedlot, Lagoon.** A biological treatment system designed or operated for biodegradation or converting of organic matter in animal wastes to more stable end products.
- 101. Feedlot, Manure.** Any solid or liquid containing animal excreta.
- 102. Feedlot, Manure Management Plan.** A written description of how manure generated at the facility is going to be utilized during the upcoming cropping year(s) in a way that protects surface-water and ground-water quality, while also being beneficial from an agronomic and economic standpoint.
- 103. Feedlot, New.** An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of five years or more.
- 104. Feedlot Operator.** An individual, a corporation, a group of individuals, a partnership, joint venture, owner or any other business entity having charge or control of one or more livestock feedlots, poultry lots or other animal lots.
- 105. Feedlot, Pollution Hazard.** An animal feedlot or manure storage area that:
- A. Does not comply with the requirements of Minnesota Rules parts 7020.2000 to 7020.2225, as amended, and has not been issued an SDS or NPDES permit establishing an alternative construction 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.
- 106. Fence.** Any partition, structure, wall or gate specifically placed to form a divider marker, barrier, or enclosure and located along the boundary or within the required yard.
- 107. Fence, Privacy.** Any fence over four (4) feet in height, but not more than six (6) feet from the ground level as regulated in Article 12, Section 1209.6 of this Ordinance.
- 108. Fish House.** A structure designated and used solely for placement on a lake for winter ice fishing.
- 109. Flood.** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- 110. Flood Frequency.** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

- 111. Flood Fringe.** The portion of the Special Flood Hazard Area (one percent (1%) annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in Flood Insurance Study for Murray County, Minnesota.
- 112. Flood Insurance Rate Map (FIRM).** An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- 113. Floodplain.** The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- 114. 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.
- 115. Floodway.** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- 116. Garage.** An accessory building or portion of the principal building which is intended for and used to store the private passenger vehicles of the family or family’s resident upon the premises.
- 117. Gazebo.** A roofed structure that furnishes a shady refuge, sometimes referred to as a summerhouse. For the purposes of this Ordinance, a gazebo is a non-water-oriented structure.
- 118. Gross Floor Area.** The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, the exterior faces of exterior walls, or from the center line of party walls separating two (2) buildings; the term does not include basements used for storage purposes or enclosed spaces used for off-street parking.
- 119. Groundwater.** Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near-surface unconsolidated sediment or regolith, or in rock formations deeper underground.
- 120. Guest Cottage.** A structure used as a dwelling unit that contains sleeping spaces and/or kitchen and/or bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
- 121. Guy Supported Towers.** A tower that is supported, in whole or in part, by wires and ground anchors.
- 122. Hazardous Waste.** Any substance that, when discarded, meets the definition of hazardous waste in Minnesota Statutes, Section 116.06, Subdivision 11, or successor statutes.

**123. Height of Building.** 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.



*Figure 2 Height of Building*

**124. Highway.** Any public thoroughfare or vehicular right-of-way with a federal, state, or county numerical route designation.

**125. Home Occupation.** Any occupation or profession engaged in by the occupant of a dwelling which is clearly secondary to the principal use of the property as a residence, when carried on within said dwelling, or an accessory building or structure located on the same property. The occupant engaged in the home occupation must legally and physically reside at the location on which the home occupation is permitted.

**126. Impervious Surface.** An area of land covered by material or structure, which substantially prevents the absorption of water into the ground, including but not limited to, asphalt or concrete driveways, decks, and buildings.

A. Impervious surface calculation special allowances:

- 1) Only 90% of gravel driveways, gravel roadways or gravel parking areas shall be deemed impervious.
- 2) Pervious Decks. Decks shall be considered pervious if all of the following conditions are met:
  - a) Maximum material (board) width is eight (8) inches;
  - b) Minimum spacing between material (boards) is one-quarter (1/4) inch; and
  - c) The area under the deck is pervious material.

**127. Improvement.** Making the use or structure better, more efficient, or more aesthetically pleasing including any change that does not replicate what pre-existed but does not include expansion, enlargement, or intensification.

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

**129. Intensive Vegetation Clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

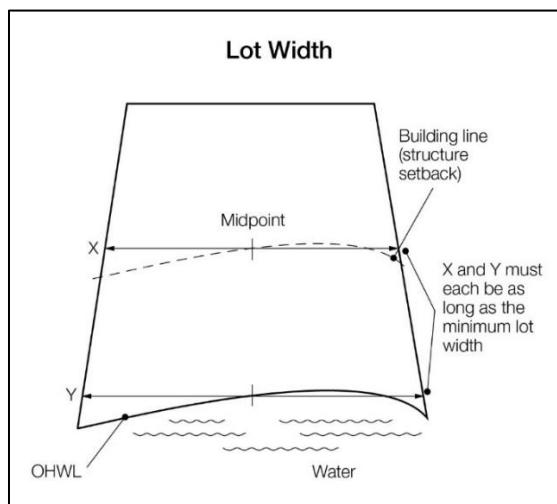
- 130. ISTS.** An individual subsurface sewage treatment system having a design flow of no more than 5,000 gallons per day.
- 131. Interim Use.** A use that is allowed for a limited period of time, subject to the conditions set forth in Article 30 of this Ordinance.
- 132. Interim Use Permit.** A permit that allows a use that is neither a permitted, provisional or conditional use, for a limited period of time subject to conditions set forth in Article 30 this Ordinance.
- 133. Junk and Salvage Operation.** A place where waste, stored or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junk and salvage operation includes an auto wrecking yard but does not include uses established entirely within enclosed buildings.
- 134. Kennel – Commercial, Boarding.** A commercial activity where animals are brought to the facility by their owner and boarded away from their owner for limited periods of time. Animals in boarding kennels are kept separated and do not engage in breeding activities. Animals in boarding kennels are not held out for sale.
- 135. Kennel – Commercial, Breeding.** A commercial activity where four (4) or more dogs and/or domestic pets over six (6) months of age are kept for breeding purposes, engage in breeding activities and birthing, and where resulting young are raised for sale and sold.
- 136. Kennel, Private.** Any place where four (4) or more dogs and/or domestic pets over six (6) months of age are owned by any member of the household for private enjoyment. Private kennels are an accessory to the principal use of the property.
- 137. Lagoon.** A biological treatment system designed and operated for biodegradation, converting organic matter to more stable end products.
- 138. Landfill, Demolition.** A place for the disposal of demolition waste, building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition.
- 139. Landfill, Solid Waste.** A place for the disposal of solid waste including garbage, refuse, and other discarded solid materials resulting from residential, commercial, industrial, and community activities.
- 140. Landing.** A level area at the top or bottom of a section of stairway, with or without a railing.
- 141. Large Farm Winery.** A winery with annual production of 5,000 cases or greater.
- 142. Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- 143. Lot Area.** The area of a lot in a horizontal plane bounded by the lot lines.
- 144. Lot, Coverage.** The total allowable amount of lot area, expressed as a percentage, which may be covered by a principle building and its accessory structures, excluding projecting roof eaves that are three feet or less in size.
- 145. Lot Lines.** The lines bounding a lot as defined in this Ordinance.

**146. Lot, Substandard.** A lot or parcel of land for which record title has been established in the records of the office of the Murray County Recorder upon or prior to the effective date of this Ordinance, which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.

**147. Lot of Record.** Any lot which has been recorded in the Office of the Murray County Recorder prior to the adoption of this Ordinance.

**148. Lot Width.** The minimum distance between:

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



*Figure 3 Lot Width*

**149. Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Regulations, Part 60.3, or successor codes.

**150. LSTS.** Any subsurface sewage treatment system and dispersal system, or group of systems, requiring a State Disposal System permit.

**151. Manufactured Home.** As defined in Minnesota Statutes 327.31, Subd. 6, or successor statutes. The term "manufactured home" does not include the term "recreational vehicle."

**152. Manure Storage Area.** An area where animal manure or process wastewaters are stored or processed. Short-term and permanent stockpile sites and composting sites are manure storage areas. Animal manure packs or mounding within the animal holding area of an animal feedlot that are managed according to Minnesota Rules 7020.2000, subpart 3 or successor rules, are not manure storage areas.

**153. Market Value.** The value of any structure determined by the current records of the Murray County Assessor for the year in which the damage or improvements are made.

- 154. Metes and Bounds.** A description of real property which is not described by reference to a lot or block shown on a recorded plat but is defined by starting at a known point and describing, in sequence the lines forming the boundaries of the property.
- 155. Mining Operation.** The removal from the land of stone, sand and gravel, top soil, black dirt, peat, coal, slate, iron, copper, nickel, granite, petroleum products or other minerals or materials for commercial, industrial or governmental purposes.
- 156. 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.
- 157. Mobile Home.** A factory built dwelling that is not a manufactured home and used generally for year-round occupancy as a single family dwelling constructed for movement from place to place occasionally; generally less than seventeen (17) feet wide; generally requiring a special tow vehicle together with a special towing permit for travel on public highways; also used as temporary office space.
- 158. Modular Home.** A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site.
- 159. Monument.** A structure, such as a building or sculpture, erected as a memorial. No permit required if the monument does not exceed ten (10) square feet and is less than ten (10) feet in overall height.
- 160. Motel.** A business comprising of a series of attached or detached rental units, with or without eating facilities, used primarily as temporary residences for motorists, tourists or travelers.
- 161. MPCA.** Minnesota Pollution Control Agency.
- 162. MPCA Commissioner.** The commissioner of the Minnesota Pollution Control Agency.
- 163. MSTs.** A mid-sized subsurface sewage treatment system under single ownership that receives sewage from dwellings or other establishments having a design flow of greater than 5,000 gallons per day to 10,000 gallons per day.
- 164. Municipality.** A city, village, borough, county, town, sanitary district, or other governmental subdivision or public corporation, or agency created by the legislature.
- 165. National Pollutant Discharge Elimination System (NPDES).** A permit issued by the MPCA for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations.
- 166. New Construction.** Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this Ordinance.
- 167. Non-Buildable Lot.** A lot which is not permitted to have a dwelling of any kind erected or placed upon said lot.
- 168. Non-Commercial Speech.** Dissemination of messages not classified as commercial speech, which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

- 169. Non-Conforming Use.** Any legal use already in existence before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date the use was established.
- 170. Nonconformity.** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.
- 171. Notice of Noncompliance.** A written document issued by the Department notifying a SSTS owner that the owner's onsite-cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance and Minnesota Rules Chapters 7080-7083, or successor rules.
- 172. Obstruction.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of flow of water, either in itself or by catching or collecting debris carried by such water.
- 173. Official Control.** Official control means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of 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 comprehensive plan. Such official controls may include but are not limited to, ordinances establishing zoning, subdivision controls, site plan rules, sanitary codes, building codes, housing codes, and official maps.
- 174. Open Space.** A portion of a development site that is permanently set aside for public or private use and will not be developed.
- 175. Ordinary High-Water Level.** The boundary of public waters and wetlands and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.
- 176. Owner.** Any individual, firm, association, syndicate, partnership, public or private corporation, trust or other legal entity having sufficient property interest in a property to commence and maintain proceedings under this Ordinance, or the owner of record or the person or persons who own a facility or part of a facility.
- 177. Parcel.** A piece of land having its own dimensions, as described by plat or survey, metes and bounds or by reference to a section or partial section.
- 178. Pasture.** A fenced in area for livestock where a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or water devices.

- 179. Patio.** An open recreation area adjacent to a dwelling, or free standing, that is covered with a pervious or an impervious surface such as asphalt, paving stones, wood, or other approved material. A patio does not have attached railings, seats, trellises or other features that extend more than one (1) foot above the pre-existing or natural grade.
- 180. Permitted Use.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and performance standards (if any) of such district.
- 181. Pit, SSTS.** A hole dug with a backhoe, or an auger no less than two (2) inches in diameter, used for soil verification for the purpose of designing SSTS.
- 182. Planned Unit Development (PUD).** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, and conversions of structures and land uses to these uses.
- 183. Planned Unit Development (PUD) Commercial.** Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- 184. Planned Unit Development (PUD), Residential.** A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five (5) dwelling units or sites.
- 185. Planning Commission.** The Murray County Planning Commission as created by this Ordinance and appointed by the Board.
- 186. Practical Difficulty.** As used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.
- 187. Principal Use or Structure.** The predominant use of the land or buildings as distinguished from subordinate or accessory uses. A primary use may be either permitted or conditional.



**188. Public Water Supply Wells.**

- A. Community Public Water Supply Wells. Public water systems, such as municipalities and manufactured home parks, serve consumers in a residential setting.
- B. Non-Community Public Water Supply Wells. Public water systems, such as schools, factories, restaurants, resorts, and churches that are served by their own supply of water (usually a well).

**189. Public Waters.** Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15 and 15a, or successor statutes.

**190. Qualified Employee, SSTS.** An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual's employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

**191. Quarter and Quarter-Quarter Sections.** A division of a section of land according to the rules of the original United States Government public land survey. A quarter refers to 160 acres or its approximate, a quarter-quarter refers to forty (40) acres or its approximate.

**192. Reach.** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

**193. Recreational Use, Commercial Outdoor.** A private commercial recreational, outdoor use, that is primarily conducted for purposes of pleasure, rest and/or relaxation, that incorporates and/or uses on-land features, and that derives its principal benefit from being located in natural surroundings. Examples of such uses include but are not limited to golf courses, driving ranges, shooting ranges, hunting preserves, aerial zip lines, rope courses, biking trails, skiing trails, hiking trails, horse riding trails and stables, athletic fields, and other outdoor athletic facilities. Outdoor recreational uses are privately owned and may be operated with or without the intention of earning a profit by providing outdoor recreational activities for members of the public, private groups, or private member clubs or organizations.

**194. Recreational Use, Commercial Indoor.** Includes all uses that are privately owned and provide entertainment for the public indoors such as bowling alleys, indoor roller- and ice-skating rinks, indoor driving ranges, health clubs, etc.

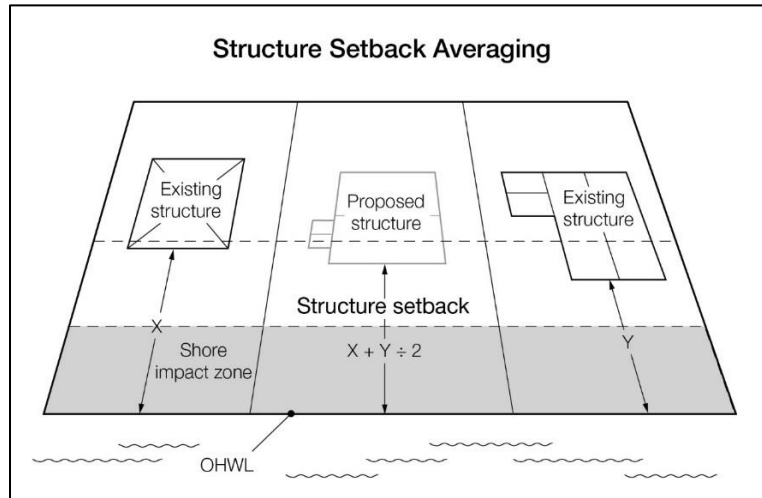
**195. Recreational Camping Vehicle.** Recreational camping vehicle or recreational vehicle shall have the meaning given in Minnesota Statutes, Section 327.14, subdivision 7; or successor statutes. A recreational camping vehicle or recreational vehicle is considered a structure and a Residential Dwelling Unit for the purposes of this Ordinance. A travel trailer shall have the same meaning as a recreational camping vehicle.

**196. Recycling Facility.** A facility at which materials are prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use.

- 197. Regional Flood.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonable characteristic of what can be expected to occur on an average frequency in magnitude of the one percent (1%) chance or one hundred (100) year recurrence interval. Regional flood is synonymous with the term "base flood" used in the flood insurance study.
- 198. Regulatory Flood Protection Elevation.** An elevation not less than one (1) foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- 199. Renewable Energy.** Energy from sources that are not easily depleted such as, but not limited to, moving water (hydro, tidal and wave power), biomass, geothermal energy, solar energy, wind energy, and energy from solid waste treatment plants.
- 200. Renewable Energy Ordinance.** The ordinance promulgated and adopted by the Board to provide the minimum acceptable standards relating to the Renewable Energy Uses within the County.
- 201. Repairs and Maintenance.** An alteration of the interior or exterior portion of a structure that does not involve the replacement of the main structural frame, walls, or changes in the exterior dimensions of the structure. Repairs and maintenance of an existing structure shall be considered one (1) or more of the following:
- A. Work performed on the interior of the structure;
  - B. Work performed on the exterior of the structure to include the following:
    - 1) Painting, replacement of siding, windows, doors, soffit, fascia, re-roofing (to include shingles and sheeting), roofing (if roofing replacement does not increase the height by more than two (2) feet, or increase living space) and ornamentation. This also includes replacement of rotten or deteriorated material associated with the replacement of above items;
    - 2) Additional doors or windows;
    - 3) Repairs to foundation provided the existing building floor elevation is not raised more than thirty-six (36) inches above its previous floor elevation;
    - 4) Incidental repairs to decks and platforms (i.e. new floorboard and/or railings);
  - C. Under no condition shall repairs and maintenance constitute replacement of the main structural frame, walls, or changes in the exterior dimensions.
- 202. Repetitive Loss.** Flood related damages sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.
- 203. Replacement, Reconstruction, or Restoration.** Construction that exactly matches pre-existing conditions. By way of example, this would include, but is not limited to, exactly matching pre-existing conditions in terms of location, dimension, size, area, floor plan, useable space (both finished and unfinished), height, volume, and roof line.

- 204. Residence.** Any building, structure or dwelling which includes, or is intended to include, sleeping spaces, cooking areas and sanitation facilities so as to allow for human occupation. When used in this Ordinance, the word residential shall mean a dwelling, building, or other structure that is being used as a residence.
- 205. Residence, Occupied.** A residence that at the time of the inquiry has been actively used for human habitation on a permanent, regular, or intermittent basis during the last five (5) years, and that is currently capable of being occupied as a residence.
- 206. Retail Winery Operations.** Associated Accessory Retail Sales, Tasting Room operations, and the processing of grapes into wine conducted in a Commercial or Industrial District that are not conducted at a winery.
- 207. Riparian Land.** Riparian Land means lands adjacent to public waters, drainage systems, wetlands, or locally designated priority waters identified in a comprehensive local water plan.
- 208. Resort.** Resort has the meaning in Minnesota Statutes, Section 103F.227, or successor statutes, if it is in a shoreland; and the meaning set forth in Minnesota Statutes, Section 157.15, or successor statutes, for those situated outside of a shoreland.
- 209. Road.** A public or private right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, boulevard, thoroughfare, parkway, throughway, roadway, road, avenue, lane, place, or as otherwise described. Ingress and Egress easements shall not be considered roads.
- 210. SDS.** State Disposal System permit from MPCA.
- 211. Seasonal Produce Stand.** A temporary stand, structure, or place that is used for the seasonal selling of fresh fruit and vegetable produce grown on the property.
- 212. Self-Storage Facility.** A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.
- 213. Semi-Public Use.** The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- 214. Sensitive Groundwater Area.** A geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface. These areas may be identified by mapping or other appropriate methods determined by the Commissioner of Natural Resources and the Board of Water and Soil Resources. Wellhead protection areas may be designated as a sensitive groundwater area.
- 215. 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.
- 216. Setback.** The minimum horizontal distance between a structure, an ordinary high-water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility. All setbacks are measured from the overhang or eave of the structure.

**217. Setback Averaging.** A method of determining the building line whereby the distances between the Ordinary High-Water Level (OHWL) and the principal structures on either side of a proposed or existing principal structure are measured and averaged. The resulting product is the allowable building line. Where one or more of the principal structures is located in the shore impact zone, the shore impact zone, where it intersects the property line, shall be used to calculate the setback from the OHWL.



**218. Sewage.** Waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

**219. Sewage Tank.** A receptacle used in the containment or treatment of sewage and includes, but is not limited to, septic tanks, aerobic tanks, pump tanks, and holding tanks.

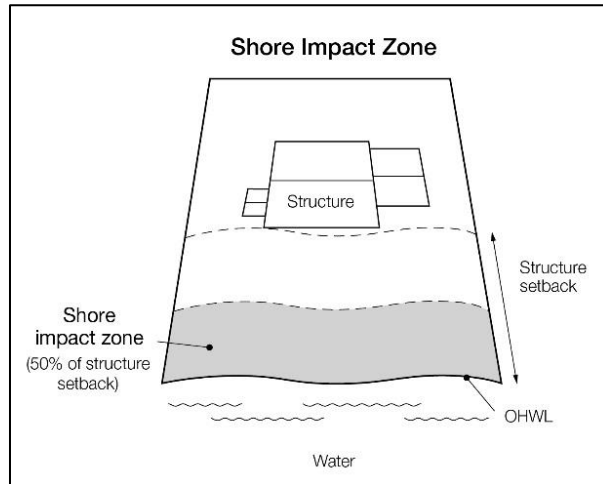
**220. Sewage Treatment System.** Sewage treatment system has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82, or successor rules.

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

**222. Sewered.** Any lake, river, or stream or portion thereof that is served by a public wastewater treatment system.

**223. Shooting Range, Public or Private.** An area or facility that is designed or operated primarily for the use of firearms, archery or other weapons, and that is operated as a business, operated by a private club or association, or operated by a government entity. An incidental target practice area on private property that occasionally is used by an individual or group of individuals for the use of firearms shall not constitute a shooting range.

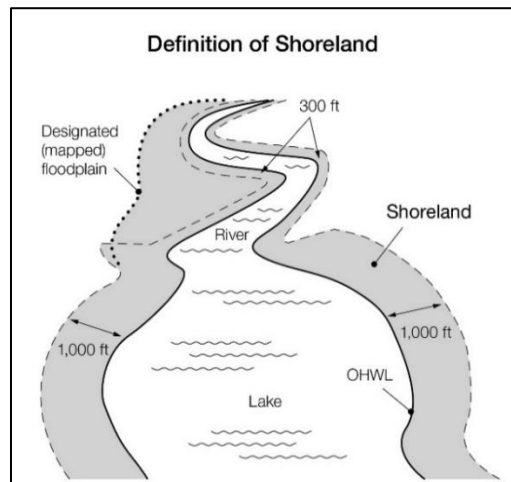
**224. Shore Impact Zone.** Land located between the ordinary high-water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the required structure setback for the applicable lake or river classification, except for lakes classified as General Development, which shall have a shore impact zone of fifty (50) feet.



*Figure 4 Shore Impact Zone*

**225. Shoreland.** Land located within the following distances from the public water.

- A. 1,000 feet from the ordinary high-water level of a lake, pond, or flowage: and
- B. 300 feet from a river or stream, or the landward extent of a floodplain designated by this Ordinance on a river or stream, whichever is greater.



*Figure 5 Definition of Shoreland*

**226. Shore Recreation Facilities.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities

**227. Shoreland Setback.** The minimum horizontal distance between a structure and the ordinary high-water mark.

- 228. Sign.** Any device, including any letters, words, numerals, figures, or symbols, displayed for communicative or informational purposes and visible members of the public who are not on the premises on which the device is located, including any equipment, structure or man-made item used or erected primarily for use in connection with the display on such device and all lighting or other attachments used in connection.
- 229. Sign, Government.** A sign that is required, erected or maintained by a governmental unit or for the purpose of providing a safety warning about a public utility.
- 230. Sign, Off-premise (Billboard).** A sign which advertises, announces, and/or pertains to a business establishment, commodity, merchandise, service, activity, or entertainment which is not sold, produced, manufactured, or furnished at the property on which said sign is located.
- 231. Sign, Temporary.** A sign displayed concurrent with a specific event or occurrence for a limited duration, after which the sign must be removed.
- 232. Significant Historical 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 provisions of Minnesota Statutes, Section 307.08 or successor statutes. 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.
- 233. Small Farm Winery.** A winery with annual production less than 5,000 cases and at least fifty percent (50%) of the wine produced at the winery is sourced from grapes grown at designated vineyards within the State of Minnesota.
- 234. Social Gatherings.** A gathering for the purpose of promoting fellowship; a group of persons together in one place.
- 235. Solar Energy System.** 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.
- 236. Solar Energy System, Large.** A solar energy system with a nameplate capacity of forty (40) kilowatts or more.
- 237. Solar Energy System, Small.** A solar energy system with a nameplate capacity of less than forty (40) kilowatts.
- 238. Special Flood Hazard Area.** A term used for flood insurance purposes synonymous with "One Hundred (100) Year Floodplain".
- 239. Special Protection.** A zoned area, the purpose of which is to manage areas unsuitable for development.

**240. Specified Anatomical Areas**

- A. Less than completely and opaquely covered:
  - 1) Human genitals.
  - 2) Pubic Region.
  - 3) Buttocks.
  - 4) Female breast below a point immediately above the top of the areola.

**241. Specified Sexual Activities:**

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse, or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

**242. SSTS.** Subsurface sewage treatment system including an ISTS, MSTs.

**243. Start of Construction.** Means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement, including land preparation.

**244. State.** The State of Minnesota.

**245. State Feedlot Permit.** A construction short-form permit, an interim permit, a state disposal system permit, a national pollution discharge elimination system permit or any other permit developed or issued by the State to regulate feedlots.

**246. Steep Slope.** Lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty (50) feet or more, which are not bluffs.

**247. Structure.** Anything constructed or erected, the use of which requires or involves permanent location on the ground or attachment to something on the ground, including but not limited to buildings of any nature for any use, any advertising devices and signs, and any other man-made items not otherwise listed, but not including aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities or fences.

**248. Structural Alterations.** Any change in the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

**249. Subdivision.** Improved or unimproved land which is divided for the purpose of sale, transfer, rent, or lease, into two (2) or more lots or parcels including planned unit developments.

**250. Subdivision Ordinance.** The ordinance promulgated and adopted by the Board to provide the minimum acceptable standards relating to the subdivision of land within the County.

**251. Substantial Damage.** Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

- 252. Substantial Improvement.** Within any consecutive 365-day period, any reconstruction, rehabilitation, (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equal or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. The term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
  - B. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1, or successor codes.
- 253. Suitability Analysis.** An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.
- 254. Swimming Pool, Above Grade.** A swimming pool whose exposed sides have a height of four (4) feet or greater above the natural ground located adjacent to said swimming pool.
- 255. Swimming Pool, Below Grade.** A swimming pool whose exposed sides have a height of less than four (4) feet above the natural ground located adjacent to said swimming pool.
- 256. Swimming Pool, Private.** A structure, not located within a completely enclosed building, for swimming or bathing purposes, which is capable of containing water at a depth of one and one half (1 ½) feet or greater.
- 257. Temporary Dwelling for Supportive Care.** A dwelling for the housing of a caregiver or person receiving care that will be removed once the care is no longer needed.
- 258. Temporary Use.** An occasion or event limited in duration that complies with the regulation of the zoning district.
- 259. Tower.** Any pole, spire, structure or combination thereof, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting antenna or to serve as an antenna, or for the placement of a wind energy conversion system.
- 260. Travel Trailer.** See Recreational Vehicle.
- 261. Unincorporated Area.** The area outside an incorporated city, village, or borough.
- 262. 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.
- 263. Variance.** Means the same as that defined in Minnesota Statutes, Section 394.27 Subd. 7, or successor statutes.



- 264. Water-Oriented Accessory Structure or Facility.** A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 or successor statutes are not a water-oriented accessory structure.
- 265. Water-Dependent Use.** The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.
- 266. WECS – Wind Energy Conversion System.** A device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy, including, but not limited to: power lines, transformers, substations, and meteorological towers. The energy may be used on-site or distributed into the electrical grid.
- 267. Wellhead Protection Area.** The surface and subsurface area surrounding a well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the well or well field as regulated under Minnesota Rules Chapter 4720, or successor rules.
- 268. Wetland.** Wetland has the meaning given under Minnesota Rules, part 8420.0111, or successor rules.
- 269. Windmill, Functional.** A structure utilizing wind power for the pumping of water for agricultural use on the parcel of property on which the windmill is located.
- 270. Windmill, Ornamental.** A non-functional windmill used for decoration.
- 271. Wine.** The product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar. Wine is defined as not less than one-half percent (.5%) or more than twenty-four percent (24%) alcohol by volume per Minnesota Statutes, 340A.101, Subd. 29, or successor statutes.
- 272. Wine Case.** A case that contains twelve (12) standard wine bottles (750 milliliters each).
- 273. Wine Grower.** Any person who has facilities and equipment for the conversion of grapes, berries or other fruit into wine, and is engaged in the production of wine. All persons producing less than 200 gallons of wine per year for personal consumption are not considered winegrowers.
- 274. Wine Tasting Room.** A room in conjunction with a winery where the following may occur:
- A. Tasting of wine, fruit wines, and non-alcoholic fruit juices takes place at a charge or no charge to the individual.
  - B. The retail sales of winery products associated accessory retail sales of non-food items, products by the bottle for off premises consumption, and packaged food items are allowed. Gratuitous offerings of cheese, crackers, or condiments associated with wine sampling are allowed.

- 275. Winery.** Facilities, for the purposes of this Ordinance, that are used for processing grapes into wine, including: crushing, fermenting and re-fermenting, bottling, blending, bulk and bottle storage, aging, shipping, receiving, laboratory equipment and maintenance facilities, sales, and administrative office functions, and may include tasting and promotional events. A winery must be located on the same premises as a vineyard.
- 276. Woodland Conversion.** The clear cutting of wooded lands to prepare for a new land use other than reestablishment of a subsequent wood stand.
- 277. Yard.** The open space on an occupied lot that is not covered by a structure.
- 278. Yard, Front.** A yard extending across the front of the lot between the side yard lines and lying between the right-of-way line of the road or highway and the nearest line of the building.
- 279. Yard, Rear.** An open space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear lot line of the lot, for the full width of the lot.
- 280. Yard, Side.** An open, unoccupied space on the same lot with a building between the building and the side line of the lot and extending from the front line to the rear of the back yard.
- 281. Zoning Administrator.** The person duly appointed by the Board and charged with the enforcement of this Ordinance or his/her authorized representative.
- 282. Zoning Amendment.** A change in this Ordinance authorized by the Board which can take three forms;
- A. Any revision or modification of the zoning text and map;
  - B. Any text change in zone requirements; or
  - C. A change in the map, i.e., the zoning designation of a particular parcel or parcels.
- 283. Zoning District.** The section of the County for which the regulations governing the height, area, use of buildings and premises are the same as delineated by this Ordinance.
- 284. Zoning Map.** The map or maps which are a part of this Ordinance and delineate the boundaries of the Zoning Districts.
- 285. Zoning Ordinance.** A Zoning Ordinance or resolution controlling the use of land as adopted by Murray County.
- 286. Zoning Permit/Certificate.** A document issued by the Zoning Administrator or his/her authorized representative to permit construction or the establishment of but not limited to all buildings, building additions, decks, structures, towers, basements, earth excavations, shoreland repairs, and vegetation alterations, sewer systems, mobile homes, trailer houses, all farm buildings, grain bins, corn cribs, silos, feed rooms, milk rooms, etc., which acknowledges that such use, structure or building complies with the provisions of this Zoning Ordinance or authorized variance there from.

## ARTICLE 5 CLASSIFICATION OF DISTRICT

### SECTION 501. DISTRICTS

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

1. "SP" SPECIAL PROTECTION
2. "A" AGRICULTURAL DISTRICT
3. "R" RESIDENTIAL DISTRICT
4. "C" COMMERCIAL DISTRICT
5. "I" INDUSTRIAL DISTRICT
6. "F" FLOODPLAIN OVERLAY DISTRICT
7. "S" SHORELAND OVERLAY DISTRICT
8. "CLR" CLOSED LANDFILL RESTRICTED OVERLAY DISTRICT
9. "AP" AIRPORT OVERLAY DISTRICT
10. "DWM" DRINKING WATER MANAGEMENT OVERLAY DISTRICT

### SECTION 502. MAPS

1. The following maps are all part of the Official Zoning Map.
  - A. Zoning Map. The location and boundaries of the districts established by this Ordinance are hereby made a part of this Ordinance; said map shall be 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 here in. It shall be the responsibility of the Zoning Administrator to maintain said map and amendments thereto shall be recorded on said zoning map within thirty (30) days after official publication of any amendment. The official zoning map shall be kept on file in the Zoning Administrator's office.
  - B. Floodplain Zoning District Map. The Flood Insurance Rate Map for Murray County, dated May 3, 1990, developed by the Federal Emergency Management Agency is hereby adopted by reference as the Official Floodplain Zoning District Map and made a part of this Ordinance.
  - C. Wellhead Protection Maps. The Source Water Protection Maps for public wells within Murray County, developed and maintained by the MN Department of Health, are hereby adopted by reference as the official Wellhead Protection Maps and made a part of this Ordinance, as amended from time to time.

### SECTION 503. DISTRICT BOUNDARIES

The boundaries between districts are, unless otherwise indicated, the centerlines 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 Board, 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 Articles 28 and 32 of this Ordinance.

### SECTION 504. PERMITTED USES

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

1. Conditional Uses allowed in accordance with the provisions of Article 29 of this Ordinance.
2. Interim Uses allowed in accordance with the provisions of Article 30 of this Ordinance.
3. Any structure which will, under this Ordinance, become non-conforming but for which a Zoning Certificate has been lawfully granted prior to the effective date of this Ordinance and continues to completion within one year after the effective date of this Ordinance, shall be a non-conforming structure.
4. Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

### SECTION 505. USES NOT PROVIDED FOR IN ZONING DISTRICT

Whenever in any zoning district a use is not specifically permitted, conditionally permitted, or denied, the use shall be considered prohibited. In such case the Board or the Planning Commission, on their own initiative or upon request of a property owner may conduct a study to determine if the use is acceptable and, if so, what zoning district would be most appropriate and the determination as to condition and standards relating to development of the use. The 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.

### SECTION 506. 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 "A" AGRICULTURAL DISTRICT until placed in another district by action of the Board after recommendation of the Planning Commission.

## **ARTICLE 6 “SP” SPECIAL PROTECTION DISTRICT**

### **SECTION 601. PURPOSE**

The purpose of the SPECIAL PROTECTION DISTRICT is to provide a district which, based on topographic, wooded, and soil conditions will protect environmentally sensitive, scenic areas; retain major areas of natural ground cover for conservation purposes; and, deter abuse of water resources and conserve other natural resources of the county. This district implements the following Murray County Comprehensive Plan goals:

1. Murray County is Attractive to Tourism. (Goal B.2)
2. Natural Resource Base and Environmentally Sensitive Lands are Protected. (Goal D.1)
3. Natural Resources are Conserved in Balance with Agriculture and Urban Development (Goal F.2)

### **SECTION 602. PERMITTED USES**

The following uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Agricultural use, including farm dwellings and agricultural buildings.
2. Non-farm, single-family dwelling (including single mobile homes)
3. Flood control or watershed structure.
4. Park, recreational area, hiking or riding trail, wildlife area, game refuge or forest preserve owned by a governmental agency.
5. Recycling Drop-Off Shed.
6. Small Farm Winery as regulated in Article 23, of this Ordinance.
7. Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.
8. Permitted Signs as regulated in Article 20 of this Ordinance

### **SECTION 603. CONDITIONAL USES**

The following uses may be allowed as conditional uses following the procedures set forth in Article 29 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance:

1. Farm Winery as regulated in Article 23, of this Ordinance.
2. Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.
3. Drive-In Theatres.
4. Public Water Supplier Facility Buildings, Water Storage Tanks, Disinfection Equipment, Disinfection Chemical Storage.

#### SECTION 604. INTERIM USES

The following uses may be allowed as interim uses following the procedures set forth in Article 30 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance:

1. Mineral extraction as regulated in Article 21 of this Ordinance.
2. Temporary dwelling for supportive care.
3. Bed and Breakfast.

#### SECTION 605. ACCESSORY USES

The following accessory buildings and uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Residential accessory buildings.
2. Accessory agricultural buildings that are accessory to an agricultural operation.
3. Signs subject to Article 20 of this Ordinance.
4. Solar energy systems – accessory.
5. Swimming pools.

#### SECTION 606. SETBACK, YARD AND HEIGHT REQUIREMENTS

All setbacks are measured from the overhang or eave of the structure and the following standards shall apply to the placement of structures on lots:

1. Yard Requirements.
  - A. Front yard.
    - 1) All structures shall be setback a minimum of fifty (50) feet from the right-of-way line of any public right-of-way.
    - 2) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory building shall project beyond the front yard of either road.
  - B. Side yard. All structures shall have two (2) side yards with a minimum width of thirty (30) feet.
  - C. Rear yard. All structures shall have a minimum rear yard of thirty (30) feet.
2. Height Requirements.
  - A. All structures shall not exceed thirty-five (35) feet in height.
  - B. Agricultural structures shall be exempt from the height requirements.
3. Exceptions. Certain uses are exempted from meeting the lot size, yard and height requirements. These exceptions are listed in Article 17, Section 1711 of this Ordinance.

#### SECTION 607. ESSENTIAL SERVICES REGULATIONS

Essential service facilities may be allowed following the procedures set forth in Article 18 of this Ordinance.

## **ARTICLE 7 “A” AGRICULTURAL DISTRICT**

### **SECTION 701. PURPOSE**

The purpose of the AGRICULTURAL DISTRICT is to maintain and conserve agricultural lands which are historically valuable for crop and animal production, pastureland and natural habitat for wildlife. Agriculture is the predominate land use, however additional residential development may be allowed at a density of one nonfarm residence per forty (40) acres. This district minimizes land use conflicts by limiting random encroachment of nonfarm residential development into agricultural areas.

Owners, residents and other users of property in this zoning district or neighboring properties may be subjected to inconvenience or discomfort arising from normal and accepted agricultural practices and operation, including but not limited to, noise, odors, dust, operation of machinery of any kind including aircraft, the storage and disposal of manure or the application of fertilizers, herbicides, soil amendments and pesticides. Owners, residents and users of this property or neighboring property should be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations, and are hereby put on official notice that the state Right-to-Farm, Minnesota Statute 561.19, or successor statutes, may bar them from obtaining a legal judgement against such normal agricultural operations.

This district implements the following Murray County Comprehensive Plan goals:

1. Agricultural Economy is Strengthened and Diversified. (Goal B.1)
2. Natural Resource Base and Environmentally Sensitive Lands Are Protected. (Goal D.1)
3. Ground and Surface Water is Protected and Preserved. (Goal D.2)
4. Technology is Available and Used by Residents, Businesses and Local Government. (Goal E.2)
5. Agricultural Land is Preserved for crop and livestock production. (Goal F.1)
6. Natural Resources are Conserved in Balance with Agriculture and Urban Development. (Goal F.2)
7. Wind Energy Conversion Projects Expand in Partnership with Local Residents. (Goal F.3)

### **SECTION 702. PERMITTED USES**

The following uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Agricultural use, including farm dwellings and agricultural buildings.
2. Cemetery or memorial garden.
3. Church.
4. Flood control or watershed structure.
5. Governmental building.
6. Home occupation as regulated in Article 17, Section 1706 of this Ordinance.
7. Individual mobile home used as a farm dwelling or as a dwelling for individuals employed in the farming operation as regulated in Article 17, Section 1707 of this Ordinance.
8. Nursery or greenhouse.
9. Feedlots that under Article 24, of this Ordinance do not require conditional use permits.

10. Park, recreational area, hiking or riding trail, wildlife area, game refuge or forest preserve owned by a governmental agency.
11. School.
12. Non-farm, single-family dwelling (including single mobile homes)
13. MET Towers.
14. Temporary, Non-Residential Construction Site.
15. Small Farm Winery as regulated in Article 23, of this Ordinance.
16. Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.
17. Private grain storage as a primary use of the property.
18. Signs as regulated in Article 20 of this Ordinance.

### SECTION 703. CONDITIONAL USES

The following uses may be allowed as conditional uses following the procedures set forth in Article 29 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance:

1. Feedlots required to obtain conditional use permits under Article 24, of this Ordinance.
2. Airport.
3. Agricultural Service Business.
4. Tourism Retail and Service Business.
5. Commercial outdoor recreational area; including but not limited to any golf course or clubhouse, riding academy or stable, organized group camp, or any public swimming pool.
6. Demolition landfill.
7. Veterinary office or clinic.
8. Recycling facility.
9. Motor Cross Dirt Bike Trail.
10. Telecommunications Tower as regulated in Article 19 of this Ordinance.
11. Kennels.
12. Farm Winery as regulated in Article 23, of this Ordinance.
13. Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.
14. Self-storage facility.
15. Campground.
16. Drive-In Theatres.
17. Public Water Supplier Facility Buildings, Water Storage Tanks, Disinfection Equipment, Disinfection Chemical Storage.



#### SECTION 704. INTERIM USES

The following uses may be allowed as interim uses following the procedures set forth in Article 30 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance:

1. Temporary Labor Housing.
2. Temporary dwelling for supportive care.
3. Mineral excavation as regulated in Article 21 of this Ordinance.
4. Junk or salvage yard as regulated in Article 17, Section 1709 of this Ordinance.
5. Home occupation as regulated in Article 17, Section 1706 of this Ordinance.
6. Shooting Range.
7. Bed and Breakfast.

#### SECTION 705. ACCESSORY USES

The following accessory buildings and uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Accessory agricultural buildings.
2. Residential accessory buildings.
3. Composting facility.
4. Kennels – private.
5. Outdoor storage.
6. Seasonal produce sales stands.
7. Solar energy systems – accessory.
8. Structures related to public airports.
9. Swimming pools.

#### SECTION 706. LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS

All setbacks are measured from the overhang or eave of the structure and the following standards shall apply to the placement of structures on lots:

1. Lot size, width and depth.
  - A. Every lot on which a non-farm, single-family dwelling is erected shall contain an area of not less than two (2) acres of buildable area, except that the minimum lot area shall not apply to the sale of lots of record at the time of enactment of this Ordinance.
  - B. For uses other than non-farm, single-family dwellings the lot size shall be adequate to meet the setback, yard, and other applicable requirements of this Ordinance.
  - C. Every lot on which a single-family dwelling is erected shall have a minimum width of not less than two hundred (200) feet at the building setback line and a minimum depth of not less than two hundred (200) feet.

2. Yard Requirements.
  - A. Front yard.
    - 1) All structures shall be setback a minimum of fifty (50) feet from the right-of-way line of any public right-of-way.
    - 2) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.
  - B. Side yard. All structures shall have two (2) side yards with a minimum width of thirty (30) feet.
  - C. Rear yard. All structures shall have a minimum rear yard of thirty (30) feet.
3. Height Requirements.
  - A. All structures shall not exceed thirty-five (35) feet in height.
  - B. Agricultural structures shall be exempt from the height requirements.
4. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 17, Section 1711 of this Ordinance.
5. Setbacks for Feedlots.
  - A. New Feedlots are subject to the required setbacks in Article 24, Section 2402.
  - B. Existing Feedlots are subject to the required setbacks in Article 24, Section 2402.
  - C. Separation Distance from Feedlots.
    - 1) Dwelling units, commercial uses and/or industrial uses shall be located no closer to an existing feedlot than a new feedlot can be placed to an existing dwelling unit, commercial use, and/or industrial use. (Refer to Article 24, for distance separation)
    - 2) All plats approved and recorded prior to the adoption of the revised Murray County Feedlot Regulation dated March 21, 1994 shall be exempt the requirements in Section 706.5C1 of this Article.

#### SECTION 707. DENSITY REGULATIONS FOR NON-FARM DWELLINGS

The following provisions shall regulate the placement of any single-family, non-farm dwelling in an AGRICULTURAL DISTRICT:

1. Permitted Lots. Not more than one (1) non-farm dwelling per quarter of a quarter section containing approximately forty (40) acres shall be permitted.
2. Lots of Record. Any lot of record as defined by this Ordinance shall be considered buildable provided all remaining ordinance provisions are met.
3. Site Plan Required. Presentation of a plan illustrating the location of the dwelling on the site, location of the septic tank and drainfield, location of the well and access from a public road. Reasonable revisions to the site plan may be required as a condition of approval.

#### SECTION 708. ESSENTIAL SERVICE REGULATIONS

Essential service facilities may be allowed following the procedures set forth in Article 18 of this Ordinance.

## **ARTICLE 8 “R” RESIDENTIAL DISTRICT**

### **SECTION 801. PURPOSE**

The purpose of the RESIDENTIAL DISTRICT is to provide areas for residential development on land that is not highly valuable farmland and is in close proximity to existing residential development or a municipality. This district implements the following Murray County Comprehensive Plan goals:

1. Aging Population Has a High Quality of Life. (Goal A.2)
2. Affordable Housing is Available in Quality and Quantity to Meet Local Needs. (Goal A.3)
3. Natural Resource Base and Environmentally Sensitive Lands are Protected. (Goal D.1)
4. Agricultural Land is Preserved for crop and livestock production. (Goal F.1)
5. Natural Resources are Conserved in Balance with Agriculture and Urban Development (Goal F.2)
6. New Development Occurs within Municipalities and Designated Areas as Specified in the Land Use Plan. (Goal F.4)

### **SECTION 802. PERMITTED USES**

The following uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Agricultural use, except for a feedlot.
2. Church.
3. Home occupation as regulated in Article 17, Section 1706 of this Ordinance.
4. Park, recreational area, wildlife area, game refuge, or forest preserve owned by a governmental agency.
5. School.
6. Single-family dwelling or residential subdivision.
7. Recycling Drop-Off Shed.
8. Temporary, Non-Residential Construction Site.
9. Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.
10. Signs as regulated in Article 20 of this Ordinance.

### **SECTION 803. CONDITIONAL USES**

The following uses may be allowed as conditional uses following the procedures set forth in Article 29 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance:

1. Cemetery or memorial garden.
2. Two family or multiple family dwellings.
3. Commercial outdoor recreational area; including any golf course or clubhouse, riding academy or stable, organized group camp or any public swimming pool.
4. Governmental administrative or service building.

5. Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.
6. Drive-In Theatres.

#### SECTION 804. INTERIM USES

The following uses may be allowed as interim uses following the procedures set forth in Article 30 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance.

1. Archery/Firearms sales.
2. Indoor Shooting Range.
3. Temporary dwelling for supportive care.
4. Home Occupations.
5. Bed and Breakfast.

#### SECTION 805. ACCESSORY USES

The following accessory buildings and uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Agricultural buildings that are accessory to a limited agricultural use.
2. Residential accessory buildings.
3. Seasonal produce sales stands.
4. Solar energy systems – accessory
5. Swimming pools.

#### SECTION 806. LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS

All setbacks are measured from the overhang or eave of the structure and the following standards shall apply to the placement of structures on lots:

1. Lot size, width and depth.
  - A. Every lot on which a single-family dwelling is erected shall contain a minimum area of twenty thousand (20,000) square feet of buildable area when an individual septic system is used.
  - B. Every lot on which a multiple family dwelling is erected shall contain a minimum area of twenty thousand (20,000) square feet of buildable area for the first unit plus twenty-five hundred (2,500) square feet for each additional unit.
  - C. Every lot on which a single-family dwelling or multiple family dwelling is erected shall contain a minimum of twelve thousand (12,000) square feet when a central or group sewer serves the lot. An additional fifteen hundred (1,500) square feet of area shall be required for each dwelling unit in excess of one (1) for multiple family structures.
  - D. For uses other than dwellings, the lot size shall be adequate to meet the setback, yard, and other applicable requirements of this Ordinance.
  - E. Every lot on which a dwelling is erected shall have a minimum width of one hundred (100) feet at the building setback line and a minimum depth of one hundred and twenty (120) feet.

- F. The minimum lot area shall not apply to the sale of lots of record at the time of enactment of this Ordinance.
- 2. Yard requirements.
  - A. Front yard.
    - 1) All structures shall be setback a minimum setback of fifty (50) feet from the right-of-way line of any public road or highway; except that, this setback may be reduced to thirty-five (35) feet when such public road is part of a subdivision platted prior to the adoption of this Ordinance.
    - 2) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.
  - B. Side yard. All structures shall have two (2) side yards with a minimum width of ten (10) feet.
  - C. Rear yard. All structures shall have a minimum rear yard of thirty (30) feet.
- 3. Height Requirements.
  - A. All structures shall not exceed thirty-five (35) feet in height.
  - B. Agricultural buildings shall be exempt from the height requirements.
- 4. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 17, Section 1711 of this Ordinance.

#### SECTION 807. ESSENTIAL SERVICES REGULATIONS

Essential service facilities may be allowed following the procedures set forth in Article 18 of this Ordinance.

## ARTICLE 9 "C" COMMERCIAL DISTRICT

### SECTION 901. PURPOSE

The purpose of the COMMERCIAL DISTRICT is to provide land at appropriate locations throughout the county for a broad range of retail, wholesale, repair and service establishments. Suitable locations for these establishments will be determined by the County based on site characteristics such as: suitability of the soil to support on-site sewer and water facilities; physical limitations to construction caused by restrictive soil conditions; access to major thoroughfares; proximity to existing commercial developments; and compatibility with surrounding land uses. This district implements the following Murray County Comprehensive Plan goals:

1. Agricultural Economy is Strengthened and Diversified. (Goal B.1)
2. Murray County is Attractive to Tourism. (Goal B.2)
3. There is a Supportive Environment for Sustainable Development. (Goal B.3)
4. County Infrastructure and Facilities are Maintained. (Goal E.1)
5. Technology is Available and Used by Residents, Businesses and Local Government. (Goal E.2)
6. An Adequate Transportation System is Provided Composed of Highways, Increased Public Transit and Aviation. (Goal E.4)
7. Natural Resources are Conserved in Balance with Agriculture and Urban Development. (Goal F.2)
8. Energy Facilities and Renewable Energy. (Goal F.3)
9. New Development Occurs within Municipalities and Designated Areas as Specified in the Land Use Plan. (Goal F.4)

### SECTION 902. PERMITTED USES

The following uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Retail stores primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of such merchandise.
  - A. Grocery store, meat market, supermarket, fruit market, or bakery.
  - B. Drug store, apparel shop or store, hardware store, bookstore, stationary store or flower shop.
  - C. Locker plant.
2. Personal services generally involving the care of the person or his personal effects.
  - A. Cleaning or laundry establishment, self-service laundry including any pressing, cleaning or garment repair.
  - B. Dressmaking, millinery, tailors shop or shoe repair shop.
  - C. Beauty shop or barber shop.
  - D. Photographic studio.
  - E. Eating or drinking establishment.

3. Motor vehicle and implement sales and service.
  - A. Automobile sales or services, car wash, trailer sales or service, auto repair garage or automobile rental.
  - B. Motor fuel station.
  - C. Agricultural equipment sales or service.
  - D. Truck sales or service, truck wash or truck repair garage.
4. Entertainment and recreation establishment.
  - A. Theater, dance hall, bowling alley, pool or billiard hall, public swimming pool, roller or ice rink.
5. Drive-in establishments.
  - A. Drive-in establishment including banks and restaurants.
6. Administrative, business or professional office.
  - A. Bank or savings and loan institution.
  - B. Insurance or real estate agent or broker.
  - C. Professional office; including, any physician, dentist, chiropractor, engineer, architect, lawyer, or recognized profession.
  - D. Veterinary office or clinic.
  - E. Governmental administrative building.
7. Retail or wholesale establishments.
  - A. Agricultural products sales or storage.
  - B. Building supply sales.
  - C. Landscape nursery or commercial greenhouse.
  - D. Mobile home sales or repair.
  - E. Motel or hotel.
  - F. Shopping center.
8. Residence when included as an integral part of the principal building to be occupied by the owner or his employee.
9. Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.
10. Signs as regulated in Article 20 of this Ordinance.

### SECTION 903. CONDITIONAL USES

The following uses may be allowed as conditional uses following the procedures set forth in Article 29 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance:

1. Recycling facility.
2. Telecommunications Tower as regulated in Article 19 of this Ordinance.
3. Retail Winery Operations as regulated in Article 23, of this Ordinance.
4. Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.
5. Self-storage facility.
6. Campground.
7. Signs as regulated in Article 20 of this Ordinance.
8. Drive-In Theatres.
9. Public Water Supplier Facility Buildings, Water Storage Tanks, Disinfection Equipment, Disinfection Chemical Storage.

### SECTION 904. INTERIM USES

The following uses may be allowed as interim uses following the procedures set forth in Article 30 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance.

1. Adult Use Business or Facility as regulated in Article 26 of this Ordinance.
2. Shooting Range.

### SECTION 905. ACCESSORY USES

The following accessory buildings and uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Accessory uses and structures that are incidental to the principal use.
2. Outdoor storage
3. Signs – non-commercial, on-premise
4. Solar energy systems – accessory

### SECTION 906. LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS

All setbacks are measured from the overhang or eave of the structure and the following standards shall apply to the placement of structures on lots:

1. Lot size and width:
  - A. No minimum lot size is required; however, the lot size shall be adequate to meet the setback, yard and other requirements of this Ordinance.
  - B. Every lot shall have a minimum width of fifty (50) feet abutting a public right-of-way.



2. Yard requirements.
  - A. Front yard.
    - 1) All structures shall be setback a minimum of fifty (50) feet from the right-of-way line of any public road or highway.
    - 2) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.
  - B. Side yard. All structures shall have two (2) side yards a minimum width of ten (10) feet, except that no building shall be located within seventy (70) feet of "SP", "A" or "R" District boundaries.
  - C. Rear yard. All structures shall be setback a minimum of thirty (30) feet, except that no building shall be located within seventy (70) feet of "SP", "A", or "R" District boundaries.
3. Height Requirements.
  - A. All structures shall not exceed forty-five (45) feet in height.
  - B. Agricultural buildings shall be exempt from the height requirements.
4. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 17, Section 1711 of this Ordinance.

#### SECTION 907. ESSENTIAL SERVICES REGULATIONS

Essential service facilities may be allowed following the procedures set forth in Article 18 of this Ordinance.

#### SECTION 908. GENERAL REGULATIONS

1. Uses established in the COMMERCIAL DISTRICT shall be operated subject to the following conditions:
  - A. Any business, except motor fuel stations, and open automobile or trailer sales, open air display areas or rental areas, shall be conducted entirely within a building.
  - B. Any open-air display area, open automobile or truck sales lot or farm implement display area shall provide a graveled or aggregate surfaced area, which shall be properly maintained.
2. Additional requirements for parking and other regulations in the COMMERCIAL DISTRICT are set forth in Article 17 of this Ordinance.

## **ARTICLE 10 "I" INDUSTRIAL DISTRICT**

### **SECTION 1001. PURPOSE**

The purpose of the INDUSTRIAL DISTRICT is to provide a district for a broad range of industrial activities. Because of their potential adverse effects on other county land uses, these industrial developments should be located in areas capable of providing adequate utilities and transportation facilities and standards should be applied to control noise, odor, dust, smoke, glare or other hazards. This district implements the following Murray County Comprehensive Plan goals:

1. Agricultural Economy is Strengthened and Diversified. (Goal B.1)
2. There is a Supportive Environment for Sustainable Development. (Goal B.3)
3. Ground and Surface Water is Protected and Preserved. (Goal D.2)
4. County Infrastructure and Facilities are Maintained. (Goal E.1)
5. Technology is Available and Used by Residents, Businesses and Local Government. (Goal E.2)
6. Drinking Water, Wastewater and Solid Waste Disposal Needs are Met. (Goal E.3)
7. An Adequate Transportation System is Provided Composed of Highways, Increased Public Transit and Aviation. (Goal E.4)
8. Natural Resources are Conserved in Balance with Agriculture and Urban Development. (Goal F.2)
9. Energy Facilities and Renewable Energy. (Goal F.3)
10. New Development Occurs within Municipalities and Designated Areas as Specified in the Land Use Plan. (Goal F.4)

### **SECTION 1002. PERMITTED USES**

The following uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Light manufacturing operation producing; food and kindred products; apparel and other finished products made from fabric and similar materials; furniture and fixtures; paper products; printing and publishing; electrical and electronic machinery, equipment and supplies; measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches, clocks and jewelry; or wood and wood products.
2. Wholesaling, warehousing and terminal operations including those with the outdoor storage of materials such as: construction materials, lumber, machinery and equipment.
3. Research, development or testing laboratory.
4. Contractor's office or storage yard.
5. Transportation terminals including air, rail and truck terminals, public garages and equipment yards.
6. Temporary, Non-Residential Construction Site.
7. Renewable Energy System, as regulated in the Murray County Renewable Energy Ordinance.
8. Signs as regulated in Article 20 of this Ordinance.

### SECTION 1003. CONDITIONAL USES

The following uses may be allowed as conditional uses following the procedures set forth in Article 29 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance:

1. Eating or drinking establishment.
2. Heavy manufacturing operation producing: chemicals and allied products; petroleum products; rubber and plastic products; leather and leather products; stone, clay, glass and concrete products; products of primary metal industries; fabricated metal products; machinery; and transportation equipment.
3. Junk yards, salvage yard, dumping grounds.
4. Retail and service business establishments related to the operation of an INDUSTRIAL DISTRICT.
5. Recycling facility.
6. Telecommunications Tower as regulated in Article 19 of this Ordinance.
7. Retail Winery Operations as regulated in Article 23, of this Ordinance.
8. Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.
9. Signs as regulated in Article 20 of this Ordinance.
10. Drive-In Theatres.
11. Public Water Supplier Facility Buildings, Water Storage Tanks, Disinfection Equipment, Disinfection Chemical Storage.

### SECTION 1004. INTERIM USES

The following uses may be allowed as interim uses following the procedures set forth in Article 30 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance.

1. Adult Use Business as regulated in Article 26 of this Ordinance.
2. Shooting Range.

### SECTION 1005. ACCESSORY USES

The following accessory buildings and uses are permitted subject to the general regulations contained in Article 17 of this Ordinance:

1. Accessory uses and structures that are incidental to the principal use.
2. Outdoor storage – accessory.
3. Outdoor display – accessory.
4. Signs - accessory, non-commercial, on-premise
5. Solar energy systems – accessory.

## SECTION 1006. LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS

All setbacks are measured from the overhang or eave of the structure and the following standards shall apply to the placement of structures on lots:

1. Lot size and width.
  - A. No minimum lot size is required; however, the lot size shall be adequate to meet the setback, yard and other requirements of this Ordinance.
  - B. Every lot shall have a minimum width of one hundred and fifty (150) feet abutting a public right-of-way.
2. Yard requirements.
  - A. Front yard.
    - 1) All structures shall be setback a minimum of fifty (50) feet from the right-of-way line of any public road or highway; except that, this setback may be reduced to thirty-five (35) feet when such public road is not a Federal, State or County Trunk Highway.
    - 2) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.
  - B. Side yard. All structures shall have two (2) side yards with a minimum width of fifteen (15) feet, except that no building shall be located within seventy (70) feet of "SP", "A", or "R" District boundaries.
3. Height requirements.
  - A. All structures shall not exceed forty-five (45) feet in height.
  - B. Agricultural buildings shall be exempt from the height requirements.
4. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 17, Section 1711 of this Ordinance.

## SECTION 1007. ESSENTIAL SERVICES REGULATIONS

Essential service facilities may be allowed following the procedures set forth in Article 18 of this Ordinance.

## ARTICLE 11 "F" FLOODPLAIN OVERLAY DISTRICT

### SECTION 1101. STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1. Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes, Chapter 103F, and Chapters 394 delegated the responsibility to local government units to adopt the regulations designed to minimize flood losses. Therefore, the Board of Commissioners of Murray County, Minnesota, does ordain as follows:
2. Purposes.
  - A. The purpose of this district is to regulate development in the flood hazard areas of Murray County. These flood hazard areas are subject to periodic inundation and may result in the potential loss of life and property, both of which affect the public health and safety, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this district to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
  - B. National Flood Insurance Program Compliance. This district is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
  - C. This district is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

### SECTION 1102. GENERAL PROVISIONS

1. District Application. This district shall be an overlay district and shall be superimposed on all zoning districts; and the Floodplain Overlay District shall be all lands in the unincorporated areas of Murray County located in the floodway, flood fringe, and general floodplain areas.
  - A. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.
  - B. Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.
  - C. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Murray County Planning Commission/Board of Adjustment and to submit technical evidence.

2. Incorporation by Reference. The Murray County Map Index, together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this Ordinance. The attached material includes the Flood Insurance Study for Murray County, Minnesota, and Incorporated areas, dated May 3, 1990 and the Flood Insurance Rate Map Panels included in the Map Index, dated May 3, 1990, all prepared by the Federal Emergency Management Agency. These materials are on file in the Murray County Environmental Services Office.
3. Warning and Disclaimer of Liability. This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of Murray County or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
4. Annexations. The Flood Insurance Rate Map panels adopted by reference into Article 5, Section 502, of this Ordinance may include floodplain areas that lie outside of the corporate boundaries of the City of Hadley at the time of adoption of this Ordinance. If any of these floodplain land areas are annexed into the City of Hadley after the date of adoption of this Ordinance, the newly annexed floodplain lands will be subject to the provisions of this Ordinance immediately upon the date of annexation.
5. Detachments. The Flood Insurance Rate Map panels adopted by reference into Article 5, Section 502, of this Ordinance will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this Ordinance. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of Murray County after the date of adoption of this Ordinance, the newly detached floodplain lands will be subject to the provisions of this Ordinance immediately upon the date of detachment.

#### SECTION 1103. ESTABLISHMENT OF FLOODPLAIN DISTRICTS

1. Districts.
  - A. Floodway District. The Floodway District includes those areas within Zones AE/AO/AH delineated within floodway areas as shown on the Flood Insurance Rate Map adopted in Article 5, Section 502, of this Ordinance. For lakes, wetlands and other basins within Zones A or AE that do not have a floodway delineated, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, Subdivision 14, or successor statutes.
  - B. Flood Fringe District. The Flood Fringe District includes areas within Zones AE/AO/AH on the Flood Insurance Rate Map adopted in Article 5, Section 502, of this Ordinance, but located outside of the floodway. For lakes, wetlands and other basins within Zones A or AE that do not have a floodway delineated, the Flood Fringe District also includes those areas below the one percent (1%) annual chance (one hundred (100)-year) flood elevation but above the ordinary high-water level as defined in Minnesota Statutes, Section 103G.005, Subdivision 14, or successor statutes.

- C. General Floodplain District. The General Floodplain District includes those areas within Zone A or Zones AE/AO/AH (that do not have a floodway delineated) as shown on the Flood Insurance Rate Map adopted in Article 5, Section 502, of this Ordinance.
2. Applicability. Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 1105 or 1106, of this Ordinance will apply, depending on the location of a property. Locations where Floodway and Flood Fringe Districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain District, the Floodway District standards in Section 1105, of this Ordinance apply unless the floodway boundary is determined, according to the process outlined in Section 1107.2, of this Ordinance.

#### SECTION 1104. REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

1. Permit Required. A permit must be obtained from the Zoning Administrator to verify if a development meets the standards outlined in this ordinance prior to conducting the following activities:
  - A. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.
  - B. The construction of a dam, on-site septic system, or any fence not meeting the definition of farm fence outlined in Article 4 of this Ordinance.
  - C. The change or extension of a nonconforming use.
  - D. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
  - E. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
  - F. Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
  - G. Any other type of “development” as defined in this ordinance.
2. Minimum Development Standards. All new construction and substantial improvements must be:
  - A. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - B. Constructed with materials and utility equipment resistant to flood damage;
  - C. Constructed by methods and practices that minimize flood damage; and
  - D. Constructed with electrical, heating, ventilation, ductwork, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
3. Flood Capacity. Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

4. Processing of Material. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
5. Critical Facilities. Defined in Article 4, of this Ordinance are to be located, so that the lowest floor is not less than two (2) feet above the regional flood elevation, or the 500 year flood elevation, whichever is higher.

#### SECTION 1105. FLOODWAY DISTRICT (FW)

1. Permitted Uses. The following uses, subject to the standards set forth in Section 1105.2, of this Ordinance are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
  - A. General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
  - B. Industrial-commercial loading areas, parking areas, and airport landing strips.
  - C. Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
  - D. Residential yards, lawns, gardens, parking areas, and play areas.
  - E. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten (10) days prior to issuance of any permit.
2. Standards for Floodway Permitted Uses.
  - A. The use must have low flood damage potential.
  - B. The use must not involve structures or obstruct flood flows. The use must not cause any increase in flood damages, nor any increase in flood elevations in areas where a floodway has been established, as certified by a registered professional engineer.
  - C. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four (4) upon occurrence of the regional (one percent (1%) chance) flood.
3. Conditional Uses. The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 1111.4 of this Ordinance and further subject to the standards set forth in Section 1105.4, of this Ordinance if otherwise allowed in the underlying zoning district.
  - A. Structures accessory to primary uses listed in Sections 1105.1A – 1105.1C above and primary uses listed in Sections 1105.3B - 1105.3C below.
  - B. Grading, extraction, fill and storage of soil, sand, gravel, and other materials.
  - C. Marinas, boat rentals, permanent docks, piers, wharves, and water control structures, and navigational facilities.
  - D. Storage yards for equipment, machinery, or materials.



- E. Fences that have the potential to obstruct flood flows.
  - F. Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the ten (10)-year frequency flood event.
4. Standards for Floodway Conditional Uses.
- A. A conditional use must not cause any increase in flood damages, nor any increase in flood elevations in areas where a floodway has been established, as certified by a registered professional engineer.
  - B. Fill, Storage of Materials and Equipment.
    - 1) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
  - C. Accessory Structures. Accessory structures, as identified in Section 1105.3A, of this Ordinance, may be permitted, provided that:
    - 1) Structures are not intended for human habitation;
    - 2) Structures will have a low flood damage potential;
    - 3) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
    - 4) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;
    - 5) Structures must be elevated on fill, open sided or structurally dry floodproofed and watertight to the regulatory flood protection elevation. Certifications consistent with Section 1111.2B, of this Ordinance shall be required.
    - 6) As an alternative, an accessory structure may be floodproofed in a way to accommodate internal flooding. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two (2) openings on at least two (2) sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding and shall allow automatic entry and exit of floodwaters without human intervention. A floodproofing certification consistent with Section 1111.2B, of this Ordinance shall be required.
  - D. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245, or successor statutes.
  - E. A levee, dike or floodwall constructed in the floodway must not cause an increase to the one percent (1%) chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream

## SECTION 1106. FLOOD FRINGE DISTRICT (FF)

1. Permitted Uses. Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Section 1106.2, of this Ordinance.
2. Standards for Flood Fringe Permitted Uses.
  - A. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one (1) foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least fifteen (15) feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the county.
  - B. Accessory Structures. As an alternative to the fill requirements of Section 1106.2A, of this Ordinance, structures accessory to the uses identified in Section 1106.1, of this Ordinance may be designed to accommodate the inundation of floodwaters, meeting the following provisions, as appropriate:
    - 1) The accessory structure constitutes a minimal investment and satisfy the development requirements in Section 1104.2, of this Ordinance.
    - 2) Any enclosed accessory structure shall not exceed 576 square feet in size, and only be used for parking and storage. Any such structure shall be designed and certified by a registered professional engineer, or be designed in accordance with the following floodproofing standards:
      - a) To allow for the equalization of hydrostatic pressure, there shall be a minimum of two (2) openings on at least two (2) sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding and shall allow automatic entry and exit of floodwaters without human intervention.
  - C. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 1106.2A of this Ordinance, or if allowed as a conditional use under Section 1106.3C below.
  - D. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
  - E. All fill must be properly compacted, and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
  - F. 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, or must have a flood warning /emergency evacuation plan acceptable to the County.

- G. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four (4) upon occurrence of the regional (one percent (1%) chance) flood.
  - H. Manufactured homes and recreational vehicles must meet the standards of Section 1110 of this Ordinance.
3. Conditional Uses. The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 1111.4 of this Ordinance and further subject to the standards set forth in Section 1106.4, of this Ordinance if otherwise allowed in the underlying zoning district(s).
- A. The placement of floodproofed nonresidential basements below the regulatory flood protection elevation. Residential basements are not allowed below the regulatory flood protection elevation.
  - B. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 1106.2A of this Ordinance.
  - C. The use of methods other than fill to elevate structures above the regulatory flood protection elevation. This includes the use of: stilts, pilings, filled stem walls, or above-grade, internally flooded enclosed areas such as crawl spaces or tuck under garages, meeting the standards in Section 1106.4E, of this Ordinance.
4. Standards for Flood Fringe Conditional Uses.
- A. The standards for permitted uses in the flood fringe, listed in Sections 1106.2D through 1106.2H, of this Ordinance, apply to all conditional uses.
  - B. Residential basements, as defined in Article 4 of this Ordinance, are not allowed below the regulatory flood protection elevation.
  - C. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A floodproofing certification consistent with Section 1111.2B, of this Ordinance, shall be required.
  - D. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
    - 1) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (one percent (1% chance) flood event.
    - 2) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to Murray County.
    - 3) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

- E. 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. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one (1) side of the structure; 2) it is designed to internally flood; and 3) it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:
  - 1) Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and include a minimum of two (2) openings on at least two (2) sides of the structure. The bottom of all openings shall be no higher than one (1) foot above grade and have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice.
  - 2) Floodproofing certifications consistent with Section 1111.2B of this Ordinance shall be required. The structure shall be subject to a deed-restricted nonconversion agreement with the issuance of any permit.

SECTION 1107. GENERAL FLOODPLAIN DISTRICT (GF).

1. Permitted Uses.

- A. The uses listed in Section 1105.1 of this Ordinance, Floodway District Permitted Uses, are permitted uses.
- B. All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 1107.2 below. Section 1105, of this Ordinance, applies if the proposed use is determined to be in the Floodway District. Section 1106, of this Ordinance, applies if the proposed use is determined to be in the Flood Fringe District.

2. Procedures for Determining Floodway Boundaries and Regional Flood Elevations.

- A. Detailed Study. Developments greater than fifty (50) lots or five (5) acres, or as requested by the Zoning Administrator, shall be subject to a detailed study to determine the regulatory flood protection elevation and the limits of the Floodway District. The determination of the floodway and flood fringe must be consistent with accepted hydrological and hydraulic engineering standards, and must include the following components, as applicable:
  - 1) Estimate the peak discharge of the regional (one percent (1%) chance) flood.
  - 2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - 3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than a half (0.5) foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless development or geographic features warrant other analysis, as approved by the Department of Natural Resources.

- B. Alternative Methods. Provided no detailed study is available, an applicant must identify a base flood elevation, at minimum, to determine the boundaries of the special flood hazard area. The applicant shall obtain and utilize best available data to determine the regional flood elevation and floodway boundaries from a state, federal, or other source. If no such data exists, the applicant may determine the base flood elevation and floodway limits through other accepted engineering practices. Any such method shall assume a one half (0.5) foot stage increase to accommodate for future floodway determination.
- C. The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from an engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
- D. Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Sections 1105 and 1106 of this Ordinance.

#### SECTION 1108. SUBDIVISION STANDARDS

- 1. Subdivisions. No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
  - A. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
  - B. All subdivisions must 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, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (one percent (1%) chance) flood has been approved by Murray County. The plan must be prepared by a registered engineer or other qualified individual and must demonstrate that adequate time and personnel exist to carry out the evacuation.
  - C. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
  - D. In the General Floodplain District, applicants must provide the information required in Section 1107.2 of this Ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

- E. Subdivision proposals must be reviewed to assure that:
- 1) All such proposals are consistent with the need to minimize flood damage within the flood prone area,
  - 2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - 3) Adequate drainage is provided to reduce exposure of flood hazard.

#### SECTION 1109. UTILITIES, RAILROADS, ROADS, AND BRIDGES

1. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
2. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 1104 and 1105 of this Ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
3. On-site Water Supply and Sewage Treatment Systems. Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

#### SECTION 1110. MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

1. Manufactured Homes. Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:
  - A. New and replacement manufactured homes must be elevated in compliance with Section 1106 of this Ordinance and must be securely anchored to a system that resists floatation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
  - B. New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 1108 of this Ordinance. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 1108.1B of this Ordinance.

2. Recreational Vehicles. New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:
  - A. Meet the requirements for manufactured homes in Section 1110, of this Ordinance, or
  - B. Be travel ready, meeting the following criteria:
    - 1) The vehicle must have a current license required for highway use.
    - 2) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
    - 3) No permanent structural type additions may be attached to the vehicle.
    - 4) Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment defined as \$500, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 1104.2 and 1106.2B, of this Ordinance.

#### SECTION 1111. ADMINISTRATION

1. Duties. A Zoning Administrator or other official designated by Murray County must administer and enforce this ordinance.
2. Permit Application Requirements.
  - A. Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:
    - 1) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
    - 2) Location of fill or storage of materials in relation to the stream channel.
    - 3) Copies of any required municipal, county, state or federal permits or approvals.
    - 4) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
  - B. Certification. Applicants 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. A registered engineer or registered architect shall certify floodproofing measures. Accessory structures designed in accordance with Section 1106.2B of this Ordinance are exempt from certification, provided sufficient assurances are documented. Any development in established floodways must not cause any increase in flood elevations or damages, as certified by a registered professional engineer.

- C. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
  - D. Recordkeeping of Certifications and As-Built Documentation. The Zoning Administrator must maintain records in perpetuity documenting:
    - 1) All certifications referenced in Section 1111.2B of this Ordinance as applicable.
    - 2) Elevations complying with Section 1106.2A of this Ordinance. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations to structures are constructed or floodproofed.
  - E. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, as amended, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
  - F. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.
3. Variances.
- A. Variance Applications. An application for a variance to the provisions of this Ordinance will be processed and reviewed in accordance with applicable State Statutes and Article 32, of this Ordinance.
  - B. Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
  - C. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
    - 1) Variance must not be issued by the County within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
    - 2) Variances may only be issued by the County upon the following:
      - a) A showing of good and sufficient cause;
      - b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
      - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.



- 3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Flood Insurance Notice. The Zoning Administrator must 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 base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
- E. General Considerations. The County may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
- 1) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
  - 2) The danger that materials may be swept onto other lands or downstream to the injury of others;
  - 3) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
  - 4) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
  - 5) The importance of the services to be provided by the proposed use to the community;
  - 6) The requirements of the facility for a waterfront location;
  - 7) The availability of viable alternative locations for the proposed use that are not subject to flooding;
  - 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
  - 9) The relationship of the proposed use to the Comprehensive Land Use Plan and floodplain management program for the area;
  - 10) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - 11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- F. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten (10) days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- G. Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten (10) days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

H. Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

4. Conditional Uses.

- A. Administrative Review. An application for a conditional use permit under the provisions of this Ordinance will be processed and reviewed in accordance with Article 29 of this Ordinance.
- B. Factors Used in Decision-Making. In passing upon conditional use applications, Murray County must consider all relevant factors specified in this Ordinance.
- C. Conditions Attached to Conditional Use Permits. In addition to the standards identified in Sections 1105.4 and 1106.4, of this Ordinance, Murray County may 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:
  - 1) Limitations on period of use, occupancy, and operation.
  - 2) Imposition of operational controls, sureties, and deed restrictions.
  - 3) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- D. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten (10) days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- E. Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten (10) days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

SECTION 1112. NONCONFORMITIES

- 1. Continuance of Nonconformities. A use, structure, or occupancy of land which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Article 4, Section 402 of this Ordinance, are subject to the provisions of Sections 1112.1A – 1112.1F below.
  - A. A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in Section 1112.1B below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
  - B. Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Section 1112.1D below.

- C. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one (1) year, any future use of the premises must conform to this ordinance.
- D. If any structure experiences a substantial improvement as defined in this ordinance, then the entire structure must meet the standards of Section 1105 or 1106 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
- E. If any nonconformity is substantially damaged, as defined in this ordinance, it may not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 1105 or 1106, of this Ordinance will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- F. If any nonconforming use or structure experiences a repetitive loss, as defined in Article 4, Section 402 of this Ordinance, it must not be reconstructed except in conformity with the provisions of this Ordinance.

**SECTION 1113. VIOLATION AND PENALTIES**

1. Violation Constitutes a Misdemeanor. 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) constitute a misdemeanor and will be punishable as defined by law.
2. Other Lawful Action. Nothing in this Ordinance restricts Murray County from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this Ordinance and will be prosecuted accordingly.
3. Enforcement. Violations of the provisions of this Ordinance will be investigated and resolved in accordance with the provisions of Article 35, Section 3505 of this Ordinance. In responding to a suspected ordinance violation, the Zoning Administrator and the County may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The County must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

## SECTION 1114. AMENDMENTS

1. Floodplain Designation – Restrictions on Removal. The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Department of Natural Resources (DNR) if it is determined that, through other measures, lands are adequately protected for the intended use.
2. Amendments Require DNR Approval. All amendments to this ordinance must be submitted to and approved by the Department of Natural Resources (DNR) prior to adoption.
3. Map Revisions Require Ordinance Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 1102.2 of this Ordinance.

## ARTICLE 12 “S” SHORELAND OVERLAY DISTRICT

### SECTION 1201. STATUTORY AUTHORIZATION AND PURPOSE

1. Statutory Authorization. This Shoreland Overlay District is adopted pursuant to the authorization and policies contained in Minnesota Statutes 103F and 103G, or successor statutes, Minnesota Rules, Chapter 6120.2500 – 6120.3900, or successor rules, and the planning and zoning enabling legislation in Minnesota Statutes, Chapters 394, or successor statutes.
2. Purpose. The purpose of the Shoreland Overlay District is to promote and enhance the quality of surface waters by promoting the wise utilization of public waters and related land resources. All land within Shoreland located in Murray County is hereby designated as Shoreland Overlay District and the standards set forth in this Article shall regulate development and other activities within the Shoreland Overlay District. This responsibility is hereby recognized by Murray County. This district implements the following Murray County Comprehensive Plan goals:
  - A. Murray County is Attractive to Tourism. (Goal B.2)
  - B. Natural Resource Base and Environmentally Sensitive Lands are Protected. (Goal D.1)
  - C. Ground and Surface Water is Protected and Preserved. (Goal D.2)
  - D. County Infrastructure and Facilities are maintained. (Goal E.1)
  - E. Technology is Available and Used by Residents, Businesses and Local Government. (Goal E.2)
  - F. Drinking Water, Wastewater and Solid Waste Disposal Needs are Met. (Goal E.3)
  - G. An Adequate Transportation System is Provided Composed of Highways, Increased Public Transit and Aviation. (Goal E.4)
  - H. Natural Resources are conserved in balance with Agriculture and Urban Development. (Goal F.2)

### SECTION 1202. GENERAL PROVISIONS AND DEFINITIONS

1. District Application. The Shoreland Overlay District shall be an overlay district and shall be superimposed on all zoning districts and the Shoreland Overlay District shall be the shoreland of the public water bodies as classified in Section 1204 of this Ordinance. The standards contained in the Shoreland Overlay District shall be in addition to any other requirements set forth in this Ordinance. If the district standards are conflicting, the more restrictive standards shall apply. The boundaries of the Shoreland Overlay District are defined as follows:
  - A. 1,000 feet from the ordinary high-water level of the classified lakes as listed in Section 1204 of this Ordinance.
  - B. 300 feet from the ordinary high-water level or the lateral extent of the floodplain when the floodplain extends beyond 300 feet from the ordinary high-water level of the classified rivers and streams as listed in Section 1204 of this Ordinance.
2. The jurisdiction of the County may extend into incorporated municipalities, by agreement of both the County and Municipality, provided by Minnesota Statute.

3. Pursuant to Minnesota Rules, Parts 6120.2500 – 6120.3900, or successor rules, no lake, pond, or flowage less than ten (10) acres in size in municipalities or less than twenty-five (25) acres in size in unincorporated areas is regulated. A body of water created by a private user where there was no previous shoreland may be exempt from this Ordinance.
4. 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.
5. Definitions. Unless defined in Article 4 of this Ordinance, Minnesota Statutes 103F, 103G, 394 or successor statutes; or Minnesota Rules, Chapter 6120, or successor rules; all terms used in this Ordinance shall be given their plain and ordinary meaning.

### SECTION 1203. ADMINISTRATION

Shoreland Zoning Permit Required. A permit is required for the construction or placement of buildings or building additions (including related items such as decks, and signs as regulated in Article 20 of this Ordinance), the installation and/or alteration of individual sewage treatment systems, as regulated in Article 25 of this Ordinance, and grading and filling activities within the shoreland overlay district as regulated in Section 1210 of this Article.

1. The placement of any concrete or wooden pads or patios, sidewalks, driveways, stepping stones, large rocks, landscaping rock beds, landscaping block and retaining walls should be reviewed by the Department to make sure impervious surface coverage of the lot is being met as regulated in Section 1211.2A of this Article.
2. Application Materials. Applications for permits and other zoning applications shall be made to the Zoning Administrator on forms provided by the County. The application shall include the necessary information so that the Zoning Administrator can evaluate how the application complies with the provisions of this Ordinance.
3. Fish House. An individual lot owner shall be limited to the storage of one (1) current licensed fish house per lot without a permit and must meet all applicable setback requirements.
4. A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, or successor rules, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.
5. Variances. Variances may only be granted in accordance with Minnesota Statutes, Section 394.27, or successor statutes, and are subject to the following:
  - A. A variance may not circumvent the general purposes and intent of this Ordinance; and
  - B. Variances within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review established community-wide including those set out in Article 32 of this Ordinance.

- C. For properties with existing sewage treatment systems, a certificate of compliance consistent with Minnesota Rules, Chapter 7082.0700, Subd. 3, or successor rules, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.
6. Conditional and Interim Uses. Conditional and interim uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional and interim uses established community-wide including those set out in Article 29 and Article 30 of this Ordinance. All conditional and interim uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:
- A. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - B. The visibility of structures and other facilities as viewed from public waters is limited;
  - C. There is adequate water supply and on-site sewage treatment; and
  - D. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.
7. Mitigation.
- A. In evaluating all variances, conditional uses, interim uses, zoning and building permit applications, the zoning authority shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this Ordinance, to protect adjacent properties, and the public interest:
    - 1) Advanced storm water runoff management treatment;
    - 2) Reducing impervious surfaces;
    - 3) Increasing setbacks from the ordinary high-water level;
    - 4) Restoration of wetlands;
    - 5) Limiting vegetation removal and/or riparian vegetation restoration;
    - 6) Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
    - 7) Other conditions the zoning authority deems necessary.
  - B. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation, screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.
8. Nonconformities.
- A. All legally established nonconformities as of the date of this Ordinance may continue, but will be managed according to Minnesota Statutes, Sections 394.36 Subd. 5, or successor statutes, and other regulations of the County for alterations and additions; repair after damage; discontinuance of use; and intensification of use.

- B. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Sections 1206-1210 of this Article. Any deviation from these requirements must be authorized by a variance.
9. Notifications to the Department of Natural Resources.
- A. All amendments to this Shoreland Overlay District must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The Zoning Administrator will submit the proposed ordinance amendments to the DNR Commissioner or the DNR Commissioner's designated representative at least ten (10) days before any schedule public hearings.
  - B. All notices of public hearings to consider variances, ordinance amendments, conditional uses, or interim uses under shoreland overlay district controls must be sent to the DNR Commissioner or the DNR Commissioner's designated representative at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
  - C. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances, conditional uses, or interim uses under local shoreland overlay controls must be sent to the DNR Commissioner or the DNR Commissioner's designated representative and postmarked within ten (10) days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
  - D. Any request to change the shoreland classification of public waters within the County must be sent to the DNR Commissioner or the DNR Commissioner's designated representative for approval, and must include a resolution and supporting data, as required by Minnesota Rules, part 6120.3000, subp.4 or successor rules.
  - E. Any request to reduce the boundaries of shorelands of public waters within the County must be sent to the DNR Commissioner or the DNR Commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.
10. Mandatory EAW. An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410, or successor rules, and Article 22 of this Ordinance, must be prepared for projects meeting the thresholds of Minnesota Rules, part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29, and 36a, or successor rules.



**SECTION 1204. SHORELAND OVERLAY CLASSIFICATION SYSTEM**

Purpose. To ensure that shoreland development on the public waters of Murray County is regulated consistent with the classifications assigned by the DNR Commissioner under Minnesota Rules, part 6120.3300, or successor rules.

1. The shoreland area for the waterbodies listed in Sections 1204.2 and 1204.3, of this Ordinance are defined in Article 4, of this Ordinance and are shown on the Official Zoning Map.
2. Lakes are classified as follows:
  - A. General Development Lakes: Generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second (2<sup>nd</sup>) and third (3<sup>rd</sup>) tiers of development are fairly common.

<b>Public Water ID#</b>	<b>Lake</b>	<b>Township</b>	<b>Section(s)</b>
51-20	2 <sup>nd</sup> Fulda Lake	Bondin	25,36
51-21	1 <sup>st</sup> Fulda Lake	Bondin	35,36
51-23	Unnamed	Lime Lake	27, 28
51-24	Lime Lake	Lime Lake	31, 32, 29, 28, 33
51-46	Lake Shetek	Lake Sarah	36, 24, 13, 11, 14
51-46	Lake Shetek	Mason	1, 2, 11, 12
51-46	Lake Shetek	Murray	6, 7
51-46	Lake Shetek	Shetek	19, 20, 29, 31, 32
51-63	Lake Sarah	Lake Sarah	15, 16, 17, 21, 22
51-81	Lake Wilson	Chanarambie	12, 13
51-81	Lake Wilson	Leeds	7, 18

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

<b>Public Water ID#</b>	<b>Lake</b>	<b>Township and</b>	<b>Section(s)</b>
51-2	Lake Julia	Dovray	24, 25
51-6	Lake Louisa	Des Moines River	1, 2, 11, 12
51-7	Silver Lake	Des Moines River	2
51-11	Buffalo Marsh	Dovray	18
51-12	Dovray Marsh	Dovray	19, 29, 30
51-13	Unnamed	Dovray	26
51-18	Buffalo Lake	Dovray; Murray	7, 18; 13
51-19	Unnamed	Dovray; Murray	19; 24
51-25	Unnamed	Lime Lake	31, 32, 30, 29
51-27	Smith Lake	Murray	5, 6, 7
51-28	Park Lake	Shetek & Murray	31 & 6
51-31	Manson Marsh	Murray	13
51-35	Webster Slough	Shetek	31
51-38	Round Lake	Shetek	16, 17, 20, 21
51-39	Freemont Lake	Shetek	19, 20
51-40	Bloody Lake	Shetek	20, 29, 28
51-41	Unnamed	Shetek	21
51-42	Robbins Marsh	Shetek	22
51-43	Fox Lake	Shetek	21, 22, 27, 28
51-45	Unnamed Basin	Shetek	28, 33
51-46	Armstrong	Shetek	29, 32, 33
51-48	Willow Lake	Iona	33
51-49	S. Badger Lake	Iona	1, 2, 11, 12
51-50	N. Badger Lake	Iona	2

<b>Public Water ID#</b>	<b>Lake</b>	<b>Township and</b>	<b>Section(s)</b>
51-54	Corabelle Lake	Iona	12, 20, 29, 30
51-62	Lake Maria	Lake Sarah	6, 7, 8, 17
51-68	Summit Lake	Leeds	11
51-69	Moon Lake	Leeds	30
51-75	Unnamed	Skandia	24
51-82	Currant Lake	Ellsborough & Skandia	12, 13 & 7, 18
51-83	Klinkers Marsh	Cameron	9, 10
51-84	Nelsons Marsh	Ellsborough	1, 2
51-89	Hjernstads Lake	Ellsborough	11
51-90	Unnamed	Ellsborough	11
51-99	Lange Marsh	Ellsborough	29, 30
17-60	Talcott Lake	Belfast	25, 24
42-29	Long Lake	Lake Sarah	4, 5
42-66	Sec. 33 Lake	Ellsborough	5

3. Rivers and Streams are classified as follows.

A. Agricultural Rivers. River segments that are located in well-roaded, intensively cultivated areas with cultivated crops as the predominant land use, with some pasture and occasional feedlots, small municipalities, and small forested areas. Residential development is not common, but some year-round residential use is occurring within commuting distances of major cities. Some intensive recreational use occurs on these river segments in particular areas, but overall recreational use of these waters and adjacent lands is low. Although potential exists for additional development and recreation, water quality constraints and competing land uses, particularly agriculture, will inhibit expansions.

- 1) West Fork Des Moines River – need legal description

- B. Tributary Streams. \* 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.
  - 1) Beaver Creek – need legal descriptions
  - 2) Champepadan Creek
  - 3) Lime Creek
  - 4) Plum Creek
  - 5) Jack Creek
  - 6) Dutch Charley Creek
  - 7) Redwood Creek
  - 8) Pell Creek
  - 9) Chanarambie Creek
  - 10) Devils Run
- C. All public rivers and streams shown on the Public Waters Inventory Map for Murray County, a copy of which is adopted by reference, not given a classification in Section 1204, of this Ordinance shall be considered “Tributary”.

SECTION 1205. LAND USES

- 1. Purpose. To identify land uses compatible with the protection and preservation of shoreline resources to conserve the economic and environmental values of shoreland and sustain water quality.
- 2. Shoreland Overlay district land uses listed in Section 1205, of this Ordinance are regulated as follows:
  - A. Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed;
  - B. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 1203.6 and Article 29 of this Ordinance and any additional conditions listed in this ordinance;
  - C. Interim uses (IU). These uses are allowed through an interim use permit. The use must be evaluated according to the criteria in Article 30 of this Ordinance and any additional conditions listed in this ordinance; and
  - D. Not permitted uses (N). These uses are prohibited.

Land uses for lake and river/stream classifications (GD – General Development Lake; NE – Natural Environment Lake; AR – Agricultural River/Stream; TR – Tributary River/Stream):

Land Uses	GD Lake	NE Lake	AR River / Stream	TR River / Stream
Single residential	P	P	P	P
Duplex, triplex, quad residential	P	C	P	P
Residential PUD	C	C	C	C
Water-dependent commercial - As accessory to a residential planned unit development	C	C	C	C
Commercial	P	C	C	P
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six (6) additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 1213 of this Ordinance are satisfied.	C	C	C	C
Parks & historic sites	C	C	C	C
Public, semipublic	P	C	C	P
Industrial	N	N	N	N
Shooting Range.	IU	IU	IU	IU
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots - New	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	C	C	C	C
Woodland management	P	P	P	P
Woodland conversion	C	C	C	C
Sand Blanket – New or Expansion	P	P	N	N
Sand Blanket – Replacement or Maintenance	P	P	N	N
Retaining Wall – Up to 4 feet in cumulative height	P	P	N	N
Retaining Wall – Over 4 feet in cumulative height	C	C	N	N
Riprap – up to RFPE	P	P	P	P
Riprap – over RFPE	C	C	C	C
Extractive use	C	C	C	C

## SECTION 1206. SPECIAL LAND USE PROVISIONS

### 1. Commercial, Industrial, Public, and Semipublic Use Standards.

#### A. Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:

- 1) The use complies with provisions of Section 1209, of this Ordinance;
- 2) The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
- 3) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- 4) Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
  - a) Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and
  - b) Signs placed within the shore impact zone are:
    - i. No higher than ten (10) feet above the ground, and no greater than thirty-two (32) square feet in size; and
    - ii. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
    - iii. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.
- 5) Commercial, industrial, public, and semi-public uses that are not water-dependent must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

### 2. Agriculture Use Standards.

#### A. Buffers.

- 1) 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.
- 2) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.

- B. New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:
  - 1) Feedlots must be designed consistent with Minnesota Rules, Chapter 7020, or successor rules;
  - 2) Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more; and,
  - 3) Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711, or successor statutes.

C. Pastures

- 1) Pastures within shoreland must maintain a fifty (50) foot buffer from the OHW of General Development or Natural Environment Lakes.

3. Extractive Use Standards. Extractive uses, as regulated in Article 21 of this Ordinance, are conditional uses and must also meet the following standards:

A. Site Development and Restoration Plan. A site development and restoration plan must be developed, approved, and followed over the course of operation. The plan must:

- 1) Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations;
- 2) Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion; and
- 3) Clearly explain how the site will be rehabilitated after extractive activities end.

B. Setbacks for Processing Machinery. Processing machinery must meet structure setback standards from ordinary high-water levels and from bluffs.

SECTION 1207. DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS

- 1. Purpose. To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- 2. Lot Area and Width Standards. After the effective date of this Ordinance, all new lots must meet the minimum lot area and lot width requirements in Sections 1207.2.D, 1207.2E and 1207.2.F, of this Ordinance, subject to the following standards:
  - A. Only lands above the ordinary high-water level can be used to meet lot area and width standards;
  - B. Lot width standards must be met at both the ordinary high-water level and at the building line;
  - C. Residential subdivisions with dwelling unit densities exceeding those in Section 1207.2.D, 1207.2E, and 1207.2.F, of this Ordinance, are allowed only if designed and approved as residential PUDs under Section 1213 of this Ordinance; and

D. Lake Minimum Lot Area and Width Standards:

1) Natural Environment	Riparian Lot Area	Riparian Lot Width	Non riparian Lot Area	Non riparian lot width
Single	80,000	200	120,000	300
Duplex	120,000	300		
Triplex	160,000	400		
Quad	200,000	500		

2) General Development	Riparian Lot Area	Riparian Lot Width	Non riparian Lot Area	Non riparian lot width
Single	20,000	100	20,000	100
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

E. Special Protection on Lakes Minimum Lot Size Standards:

Lake type	Area	Width
1) General Development	5 Acres	500
2) Natural Environment	10 Acres	1,000

F. River/Stream Minimum Lot Size Standards:

	Minimum Square Footage	Minimum Depth	Minimum Width
1) Single	120,000	300	400

3. Residential Lot Provisions.

A. Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following standards:

- 1) Each building must be setback at least 200 feet from the ordinary high-water level;
- 2) Each building must have common sewage treatment and water systems in one (1) location and serve 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; and
- 4) No more than twenty-five percent (25%) of a lake’s shoreline can be in duplex, triplex, or quad developments.



- B. Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:
- 1) The lot must meet the area and width requirements for residential lots and be suitable for the intended uses of controlled access lots as provided in Section 1207.3.B.4, of this Ordinance;
  - 2) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six (6), consistent with the following table:

Controlled Access Lot Frontage Requirements

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

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

SECTION 1208. PLACEMENT, HEIGHT, AND DESIGN OF STRUCTURES

1. Placement of Structures and Sewage Treatment Systems on Lots. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following ordinary high-water level setback provisions:

Classification	Structures	Sewage Treatment System
Natural Environment Lake	150	150
General Development Lake	75	50
Agriculture and Tributary Rivers/Streams	100	75

- A. OHWL Setbacks. Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the Ordinary High-Water Level (OHWL), except that one (1) water-oriented accessory structure or facility, designed in accordance with Section 1209.1 of this Ordinance, may be set back a minimum distance of fifteen (15) feet from the OHWL;
- B. Setback Averaging. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;
- C. Substandard lot setback requirements.
  - 1) All substandard lots must have side yard setbacks no less than ten percent (10%) of the lot width.
  - 2) No construction allowed within the designated shore or bluff impact zones.
- D. Setbacks of decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level if all of the following criteria are met:
  - 1) The principal structure to which a deck is being attached must have been in existence on September 5, 1972 when structure setbacks were established;
  - 2) A thorough evaluation of the property and structure by the Department reveals no reasonable location for a deck meeting or exceeding the existing ordinary high-water level setback of the structure; and
  - 3) Deck encroachment toward the ordinary high-water level shall not exceed fifteen percent (15%) of the existing setback of the principal structure to which it is being attached, or shall not result in a setback within the bluff or shore impact zones, whichever is more restrictive; and
  - 4) The deck shall not be screened in, enclosed or roofed.

E. Additional Structure Setbacks. Structures must also meet the following setbacks, regardless of the waterbody classification:

Setback From	Setback (in feet)
Top of Bluff	30
Unplatted cemetery	50
Right-of way line of federal, state or county highway	50
Right-of-way line of township road, public street or other roads or streets not classified	35

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

G. Non-Water-Oriented Accessory Uses. One (1) non-water-oriented accessory use may be located on lots or parcels, must meet the setbacks in Section 1208 of this Ordinance, and comply with the following:

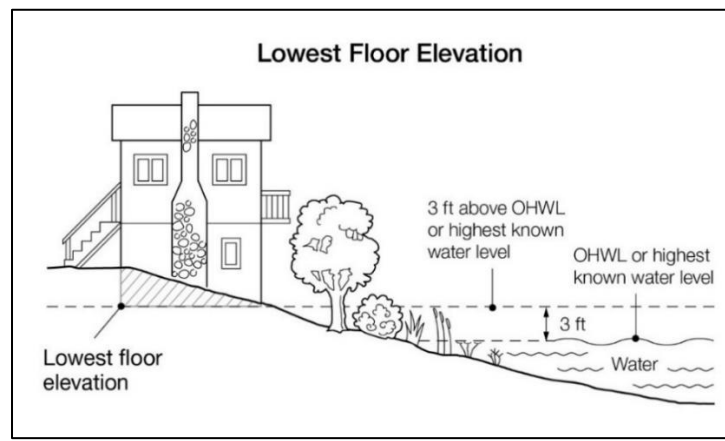
- 1) The size of any non-water-oriented accessory use must not exceed: 720 square feet in size, sidewall height shall not exceed ten (10) feet, and total height must not exceed fifteen (15) feet except:
  - a) Non-Riparian Lots. The size of any non-water oriented accessory use must not exceed 1,500 square feet in size, sidewall height shall not exceed twelve (12) feet, and total height must not exceed twenty (20) feet.
  - b) Riparian Lots with Dwelling/House. Dwelling/House unable to attach a garage; the size of any non-water oriented accessory use must not exceed 1,200 square feet in size, sidewall height shall not exceed twelve (12) feet, and total height must not exceed twenty (20) feet.
  - c) 80,000 square foot or larger riparian lots. The size of any non-water oriented accessory use may not exceed 1,200 square feet in size, sidewall height shall not exceed ten (10) feet, and total height must not exceed fifteen (15) feet on riparian lots that are a minimum of 80,000 square feet in size.
- 2) All non-water-oriented accessory uses must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

2. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed thirty-five (35) feet in height.

3. Lowest Floor Elevation. Structures must be placed in accordance with any floodplain regulations applicable to the site in Article 11 of this Ordinance. Where these controls do not exist, the elevation to which the lowest floor, including basement or crawl space, is placed or flood-proofed must be determined as follows:

A. For lakes, by placing the lowest floor at a level equal to the Regulatory Flood Protection Elevation if available, at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high-water level, whichever is higher;

- B. For rivers and streams, by placing the lowest floor at least three (3) feet above the highest known flood elevation. 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 a qualified engineer or hydrologist consistent with Minnesota Rules parts 6120.5000 to 6120.6200, or successor rules, governing the management of floodplain 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
- C. If the structure is floodproofed instead of elevated under items A and B above, then it must be floodproofed in accordance with Minnesota Rules, part 6120.5900, Subp. 3(D), or successor rules.



- 4. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- 5. Water Supply and Sewage Treatment.
  - A. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
  - B. Sewage Treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Article 25 of this Ordinance and Minnesota Rules, Chapters 7080-7081, or successor rules.
  - C. All subsurface sewage treatment systems must be set back from the ordinary high-water level in accordance with the setbacks contained in Section 1208 of this Ordinance.
- 6. Unplatted areas that fall within the Shoreland Overlay District.
  - A. All structures and sewage treatment systems must meet the setback requirements as specified in Section 1208, 1A of this Article.
  - B. All structures are exempt from size, height, number of structures and design criteria as specified in Sections 1208 and 1209 of this Article.

## SECTION 1209. PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES

1. Water-Oriented Accessory Structures or Facilities (WOAS). Each residential lot may have one (1) WOAS if it complies with the following provisions:
  - A. The WOAS must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than 120 square feet. The WOAS may include detached decks not exceeding eight (8) feet above grade at any point;
  - B. The WOAS is not in the Bluff Impact Zone;
  - C. The setback of the WOAS from the ordinary high-water level must be at least fifteen (15) feet;
  - D. The WOAS is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245, or successor statutes;
  - E. The WOAS 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;
  - F. The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or sidewalls or used as a storage area;
  - G. The WOAS must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
  - H. The WOAS may be located at fifty percent (50%) of the side yard setback.
  - I. WOAS may have the lowest floor placed lower than the elevation specified in Section 1208.3 of this Ordinance if the WOAS is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the WOAS is built to withstand ice action and wind-driven waves and debris.
2. Placement and Design of Roads, Driveways, and Parking Areas. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters and comply with the following standards:
  - A. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
  - B. Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subdivision are met;
  - C. Private facilities must comply with the grading and filling provisions of Section 1210 of this Ordinance; and
  - D. For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

3. 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, lifts and landings must meet the following design requirements:
  - A. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
  - B. Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;
  - C. Canopies or roofs are not allowed on stairways, lifts, or landings;
  - D. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
  - E. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical: and
  - F. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided they are consistent with the dimensional and performance standards of Section 1209.3A-E of this Ordinance and the requirements of Minnesota Rules, Chapter 1341, or successor rules.
4. Observation Decks/Patios. In addition to the WOAS allowed in Section 1209.1 of this Ordinance, an observation deck/patio will be allowed that meets the following:
  - A. Observation decks/patios must not exceed in length parallel to the shoreline twenty-five percent (25%) of the lot width, or if lot width is greater than one hundred (100) feet the length will not exceed twenty-five (25) feet;
  - B. Observation decks/patios must not exceed 250 square feet in size;
  - C. Canopies, roofs, and screens will not be allowed on observation decks/patios; and
  - D. Observation decks may be constructed above the ground on posts or pilings, provided they are designed and built in a manner that ensures the control of erosion;
  - E. The observation deck/patio must be setback from the ordinary high water level (OHWL) at least ten (10) feet;
  - F. The area between the observation deck/patio and the OHWL must be in native vegetation or grass cover or natural state or not mowed; and
  - G. Maximum size of an observation deck/patio and any other WOAS shall not exceed a combined square footage of 370 square feet.
5. Attached Garages. An attached garage cannot exceed 1,500 square feet for a single residential dwelling.

6. Privacy Fence. For purposes of this Ordinance, a privacy fence is any fence over four (4) feet in height, but not more than six (6) feet from the ground level. A Privacy Fence shall require a permit and shall meet the following requirements:

A. Standard size Lots

1) Riparian

- a) Can extend no more than twenty (20) feet beyond building setback line toward the OHWL;
- b) Shall meet side and rear yard setbacks;
- c) No roofing or canopies will be allowed; and
- d) Fence shall not be attached in any way to any structure.

2) Non-Riparian

- a) Can extend no more than ten (10) feet beyond building setback toward road right-of-way;
- b) Shall meet side and rear yard setbacks;
- c) No roofing or canopies will be allowed; and
- d) Fence shall not be attached in any way to any structure.

B. Sub-Standard Lots of record

1) Riparian

- a) Can extend no more than twenty (20) feet towards OHWL, except will not be allowed in Shore Impact Zone;
- b) Shall meet side and rear yard setbacks;
- c) No roofing or canopies will be allowed; and
- d) Fence shall not be attached in any way to any structure.

SECTION 1210. VEGETATION AND LAND ALTERATIONS

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

2. Vegetative Alterations.

A. Removal or alteration of vegetation must comply with the provisions of this Section except for:

- 1) Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
- 2) The construction of public roads and parking areas if consistent with Section 1209.2 of this Ordinance;
- 3) Agricultural uses consistent with Section 1206.2 of this Ordinance.

- B. Vegetative alterations may be allowed on riparian lots, in shore or bluff impact zones or on steep slopes in accordance with the following standards:
  - 1) Prior to vegetative removal regulated by this Section or prior to establishing a view corridor on a riparian lot, the property owner shall contact the Department to arrange for a site visit and complete an application for vegetative alteration; and
  - 2) The Department may require that the property owner clearly mark any proposed view corridor and/or any vegetation to be removed from a riparian lot. Additionally, the Department may require the property owner to supply information on slope, soil type, property line locations, location of easements and any other information that may be needed in order for the Department to act on a request; and
  - 3) In considering a request for vegetative alterations, including the establishment of a view corridor, the Department may take into account the predevelopment vegetation, natural openings, surrounding vegetation patterns and density, previous vegetative alterations, slope, soil type, the locations and extent of adjacent view corridors, the adjacent body of water and other information it deems necessary and pertinent to the request; and
  - 4) The total cumulative view corridor shall not exceed twenty-five (25) feet or twenty-five percent (25%) of the lot width, whichever is less; and
  - 5) From the ordinary high-water level, extending through the shore impact zone and extending to the building setback, exclusive of the view corridor, limited vegetative alterations are allowed, however planting of trees, shrubs and other vegetation is encouraged; and
  - 6) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, shall not be substantially reduced; and
  - 7) The existing shading of water surfaces along the shoreline shall be preserved during summer, leaf-on periods of the year.
- C. Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards may be removed regardless of their location on the property.
- D. Application of fertilizer, herbicides and pesticides in shoreland must be done in such a way as to minimize runoff into the shore impact zone or public water. The use of phosphorous containing fertilizer is prohibited within the shore impact zone.
- E. Burning of yard waste is prohibited within the shore and bluff impact zones or on steep slopes.
- F. Planting of trees, shrubs, establishing vegetated buffers and maintaining vegetated shorelines is encouraged on all riparian lots within the County as a method to minimize and mitigate the impacts of stormwater runoff, erosion and nutrient enrichment on the County's water resources.

3. Grading and Filling.

- A. Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 1209.2 of this Ordinance.



B. Permit Requirements.

- 1) Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section 1209.3.C of this Ordinance must be incorporated into the permit.
- 2) For all other work, including driveways not part of another permit, a grading and filling permit is required for:
  - a) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
  - b) The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- 3) Sand Blankets. The placement of sand within the shore impact zone and above the ordinary high-water level shall only be authorized by a grading and filling permit as follows:
  - a) Only clean washed sand, free of organic or toxic materials shall be used.
  - b) New sand blankets on residential lots may be up to twelve (12) inches in depth; up to thirty (30) feet in width along the shoreline or up to one-half (1/2) of the lot width, whichever is less; and may not extend more than ten (10) feet landward of the ordinary high water level.
  - c) New sand blankets on commercial parcels may be up to twelve (12) inches in depth; up to fifty (50) feet in width along the shoreline or up to one-half (1/2) of the lot width, whichever is less; and may not extend more than thirty (30) feet landward of the ordinary high water level.
  - d) An earthen berm shall be constructed on the landward side of all sand blankets to prevent erosion from surface water runoff around the sand area. The berm shall be planted with vegetation such as grass.
  - e) Replacement or maintenance of sand blankets.
    - i. A grading and filling permit shall not be required to place up to five (5) cubic yards of sand annually on an existing sand blanket on residential parcels.
    - ii. A grading and filling permit shall not be required to place up to twenty (20) cubic yards of sand annually on an existing sand blanket on commercial parcels.

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

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

- 2) Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
  - a) Limiting the amount and time of bare ground exposure;
  - b) Using temporary ground covers such as mulches or similar materials;
  - c) Establishing permanent vegetation cover as soon as possible;
  - d) Using sediment traps, vegetated buffer strips or other appropriate techniques;
  - e) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
  - f) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater;
  - g) Fill or excavated material must not be placed in bluff impact zones;
  - h) Any alterations below the ordinary high-water level of public waters must first be authorized by the DNR under Minnesota Statutes, Section 103G, or successor statutes;
  - i) Alterations of topography are only allowed if they are accessory to permitted, conditional, or interim uses and do not adversely affect adjacent or nearby properties; and
  - j) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:
    - i. All applicable DNR riprap requirements are followed;
    - ii. The finished slope does not exceed three (3) feet horizontal to one (1) foot vertical;
    - iii. The landward extent of the riprap is within (10) ten feet of the ordinary high-water level; and
    - iv. The height of the riprap above the ordinary high-water level does not exceed the Regulatory Flood Protection Elevation (RFPE).
    - v. Permits for rock riprap shall also include a requirement to establish and maintain a native vegetation buffer with a minimum width of ten (10) feet parallel to the shoreline for the entire length of the riprap and a minimum depth of five (5) feet landward of the riprap.

D. Retaining Walls.

- 1) A retaining wall may be installed with a grading and filling permit provided the following standards are met:
  - a) The Department determines there are no other alternatives to control erosion; and
  - b) New or replacement retaining wall(s) will be four (4) feet or less in cumulative height;
 or

- c) Retaining walls four (4) feet or less in cumulative height used for ornamental purposes or for terracing natural slopes where a documented erosion problem does not exist is limited to one area not to exceed twenty-five percent (25%) of the lot width as measured at the ordinary high-water level. Maximum width shall not exceed seventy-five (75) feet; or
  - d) Retaining wall(s) is located outside of the setback area for the applicable lake or river class.
- 2) A conditional use permit may be issued for retaining walls that meet the following conditions:
- a) The Department determines there are no other alternatives to control erosion;
  - b) New or replacement retaining wall(s) will be greater than four (4) feet in cumulative height;
  - c) The retaining wall is designed by a registered professional engineer or landscape architect.
  - d) Retaining walls more than four (4) feet in cumulative height used for ornamental purposes or for terracing natural slopes where a documented erosion problem does not exist when the request exceeds more than one (1) area, more than twenty-five percent (25%) of the lot width as measured from the ordinary high water level or more than seventy-five (75) feet in total width.

E. Ice Ridges.

- 1) Annual ice ridges. Annual ice ridges may be regraded to their original shoreline contour without a grading and filling permit provided that the work is completed in the year in which the annual ice ridge occurred. Any such regrading shall meet the following standards:
- a) There shall be no topsoil or vegetative matter deposited in the lake.
  - b) Any dirt moving from regrading the annual ice ridge that is used on the remainder of the property shall require a grading and filling permit.
  - c) Depositing any sand below the OHWL is subject to DNR public waters permit rules.
  - d) Temporary erosion and sediment control best management practices shall be implemented.
- 2) Historic Ice Ridges. On those ice ridges with well-established vegetative cover, alterations for lake access shall require a shoreland alteration permit and comply with the following standards:
- a) One (1) alteration site is allowed per conforming residential lot, single nonconforming lot of record, or per group of contiguous nonconforming lots in the same ownership.
  - b) On residential lots, the bottom width shall not exceed fifteen (15) feet, with side slopes no steeper than two to one (2:1) at each end.
  - c) On commercial lots, the maximum bottom width shall be twenty-five (25) feet with two to one (2:1) side slopes at each end.

- d) Berms of not less than twelve (12) inches above grade level or diversions not less than twelve (12) inches below grade level shall be placed landward of all ice ridge alterations to prevent erosion from upland runoff.
  - e) A stormwater management plan must be approved by the Department prior to any dirt moving.
  - f) All disturbed material shall be graded landward or removed from the site.
  - g) Any alteration below the OHWL may require approval from the DNR and/or U.S. Army Corps of Engineers.
- F. Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115, or successor rules.

## SECTION 1211. STORMWATER MANAGEMENT

### 1. General Standards:

- A. When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized as soon as possible, and appropriate facilities or methods used to retain sediment on the site.
- C. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

### 2. Specific Standards:

- A. Impervious surfaces of lots or parcels must not exceed twenty-five percent (25%) of the lot area.
  - 1) Impervious surfaces of lots or parcels must not exceed fifteen percent (15%) of the lot area for Natural Environment Lakes or 12,000 square feet, whichever is less.
  - 2) Impervious surfaces of lots or parcels must not exceed 20,000 square feet on lots within the Special Protection District.
  - 3) All overhangs or eaves greater than three (3) feet in size must be considered as impervious surfaces.
- B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.
- C. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231, or successor rules.

D. Shore Impact Zone

- 1) Burning or storage of yard waste or other organic material is prohibited.
- 2) A campfire that is three (3) feet or less in diameter is allowed, only if it is enclosed allowing ash removal.

SECTION 1212. SUBDIVISION/PLATTING PROVISIONS

1. Purpose. To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
2. Land suitability. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments authorized under Section 1213 of this Ordinance, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or general welfare of future residents of the proposed subdivision or of the County.
3. Consistency with other controls. Subdivisions and each lot in a subdivision shall meet all official controls, including the Murray County Subdivision Ordinance as adopted and amended, so that a variance is not needed later to use the lots for their intended purpose.
4. Water and Sewer Design Standards.
  - A. A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081, or successor rules, or written confirmation of connection to a centralized sewer system must be provided for every lot.
  - B. Each lot must include at least two (2) soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.2230, or successor rules, or site conditions described in part 7081.0270, subparts 3 to 7, or successor rules, as applicable, or written confirmation each lot will be connected to a centralized sewer system.
  - C. Lots that would require use of holding tanks are prohibited.
5. Information requirements.
  - A. Topographic contours at two (2) foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;
  - B. The surface water features required in Minnesota Statutes, Section 505.021, Subd. 1, or successor statutes, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;
  - C. Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
  - D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
  - E. Location of one hundred (100)-year floodplain areas and floodway districts from existing adopted maps or data; and

- F. A line or contour representing the ordinary high-water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- 6. Dedications. When a land or easement dedication is a condition of a subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- 7. Platting. All subdivisions that cumulatively create five (5) or more lots or parcels that are two and one-half (2-1/2) acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505, or successor statutes. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this Ordinance unless the lot was previously approved as part of a formal subdivision.
- 8. Controlled Access Lots. Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 1207.3 of this Ordinance.

#### SECTION 1213. PLANNED UNIT DEVELOPMENTS (PUD'S)

- 1. Purpose. To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.
- 2. Types Permissible. Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land.
- 3. Processing. PUDs must be processed as a conditional use. Approval cannot occur until the environmental review process (EAW/EIS), where required, is complete.
- 4. Application. The applicant for a PUD must submit the following documents prior to final action being taken on the application request:
  - A. A site plan and/or plat showing:
    - 1) Locations of property boundaries;
    - 2) Surface water features;
    - 3) Existing and proposed structures and other facilities;
    - 4) Land alterations;
    - 5) Sewage treatment and water supply systems (where public systems will not be provided);
    - 6) Topographic contours at two (2) foot intervals or less; and
    - 7) Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (2) (if project combines commercial and residential elements).
  - B. A property owner's association agreement (for residential PUDs) with mandatory membership, and consistent with Section 1213.6 of this Ordinance.

- C. Deed restrictions, covenants, permanent easements or other instruments that:
    - 1) Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
    - 2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 1213.6 of this Ordinance.
  - D. A master plan/site plan describing the project and showing floor plans for all commercial structures.
  - E. Additional documents necessary to explain how the PUD will be designed and will function.
5. Density Determination. Proposed new or expansions to existing PUDs must be evaluated using the following procedures:

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

<u>Classification</u>	<u>Tier Depth</u>	<u>Tier Depth</u>
	<u>Unsewered (feet)</u>	<u>Sewered (feet)</u>
General Development Lakes-first tier	200	200
General Development Lakes- all other tiers	267	200
Natural Environment Lakes	400	320
All Rivers	300	300

- B. Calculate Suitable Area. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high-water level of public waters.
- C. Determine Base Density:
  - 1) Residential PUDs. Divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.
  - 2) Commercial PUDs.
    - a) Determine the average area for each dwelling unit or dwelling site within each tier, including both existing and proposed dwelling units and sites in the calculation.
      - i. Dwelling Units. Determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.
      - ii. Dwelling Sites (Campgrounds). Determine the area of each dwelling site as follows:
        - i) Manufactured Homes. Use the area of the manufactured home, if known, otherwise use 1,000 square feet.
        - ii) Recreational Vehicles, Campers or Tents. Use 400 square feet.

- b) Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in Section 1213.5.C.2a, of this Ordinance.

**Floor Area/Dwelling Site Area Ratio**

General Development = GD; Natural Environment = NE; Agricultural and Tributary = Rivers

Inside Living Floor Area or Dwelling Site Area (sf)	GD Lakes w/sewer – all tiers; and GD Lakes w/no sewer – 1 <sup>st</sup> Tier  Rivers	GD Lakes w/no sewer – all other tiers	NE Lakes
≤ 200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1000	.108	.054	.027
1100	.116	.058	.029
1200	.125	.064	.032
1300	.133	.068	.034
1400	.142	.072	.036
≥ 1500	.150	.075	.038

- c) Multiply the suitable area within each tier determined in Section 1213.5.B of this Ordinance by the floor area or dwelling site area ratio to yield total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.
- d) Divide the total floor area or dwelling site area for each tier calculated in Section 1213.5.C.2c of this Ordinance by the average inside living floor area for dwelling units or dwelling site area determined in Section 1213.5.C.2a of this Ordinance. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
- 3) Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any tier closer to the waterbody.
- 4) All PUDs with densities at or below the base density must meet the design standards in Section 1213, of this Ordinance.



D. Increased Density Determination:

- 1) The following increases to the dwelling unit or dwelling site base densities determined in Section 1213.5.C of this Ordinance are allowed if the design criteria in Section 1213.6 of this Ordinance are satisfied as well as the standards in Section 1213.5.D.2, of this Ordinance:

<u>Shoreland Tier</u>	<u>Maximum density increase within each tier (percent)</u>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

- 2) Structure setbacks from the ordinary high-water level:
  - a) Are increased to at least fifty percent (50%) greater than the minimum setback; or
  - b) The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least twenty-five percent (25%) greater than the minimum setback.

6. Design Criteria. All PUDs must meet the following design criteria:

A. General Design Standards.

- 1) All residential PUDs must contain at least five (5) dwelling units or sites.
- 2) On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 1208.5 of this Ordinance. Sewage treatment systems must meet the setback standards of Section 1208.1 of this Ordinance.
- 3) Dwelling units or dwelling sites must be clustered into one (1) or more groups and located on suitable areas of the development.
- 4) Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Section 1207 of this Ordinance.
- 5) Shore recreation facilities:
  - a) Must be centralized and located in areas suitable for them based on a suitability analysis.
  - b) The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one (1) for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
  - c) Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
- 6) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the County, assuming summer, leaf-on

conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

- 7) Accessory structures and facilities, except water oriented accessory structures (WOAS), must meet the required structure setback and must be centralized.
  - a) WOAS may be allowed if they meet or exceed design standards contained in Section 1209.1 of this Ordinance and are centralized.

B. Open Space Requirements.

- 1) Open space must constitute at least fifty percent (50%) of the total project area and must include:
  - a) Areas with physical characteristics unsuitable for development in their natural state;
  - b) Areas containing significant historic sites or unplatted cemeteries;
  - c) Portions of the shore impact zone preserved in its natural or existing state as follows:
    - i. For existing residential PUDs, at least fifty percent (50%) of the shore impact zone.
    - ii. For new residential PUDs, at least seventy percent (70%) of the shore impact zone.
    - iii. For all commercial PUDs, at least fifty percent (50%) of the shore impact zone.
- 2) Open space may include:
  - a) Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
  - b) Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
  - c) Non-public water wetlands.
- 3) Open space shall not include:
  - a) Dwelling sites or lots, unless owned in common by an owner's association;
  - b) Dwelling units or structures, except WOAS;
  - c) Road rights-of-way or land covered by road surfaces and parking areas;
  - d) Land below the OHWL of public waters; and
  - e) Commercial facilities or uses.

C. Open Space Maintenance and Administration Requirements.

- 1) Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:
  - a) Commercial uses (for residential PUDs);
  - b) Vegetation and topographic alterations other than routine maintenance;
  - c) Construction of additional buildings or storage of vehicles and other materials; and
  - d) Uncontrolled beaching of watercraft.

- 2) Development Organization and functioning. All residential PUDs must use an owner's association with the following features:
  - a) Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
  - b) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
  - c) Assessments must be adjustable to accommodate changing conditions; and
  - d) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

D. Erosion Control and Stormwater Management.

- 1) Erosion control plans must be developed and must be consistent with the provisions of Section 1210 of this Ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
- 2) Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For commercial PUDs, impervious surfaces within any tier must not exceed twenty-five percent (25%) of the tier area, except that thirty-five percent (35%) impervious surface coverage may be allowed in the first (1<sup>st</sup>) tier of general development lakes with an approved stormwater management plan and consistency with Sections 1210 and 1211 of this Ordinance.

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

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

- D. Existing dwelling unit or dwelling site densities that exceed standards in Section 1213.5 of this Ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

SECTION 1214. EXCEPTIONS AND MODIFICATIONS TO SHORELAND DEVELOPMENT STANDARDS

1. HUDSON ACRES SHORELAND MANAGEMENT. Where shoreland development standards are established in this Article, the following exceptions apply only to development on Hudson Acres located in Murray Township T107N, R40W, Section 7, Lake Shetek 51-46.

- A. No structure shall be located any closer than sixty feet (60) from the Ordinary High-Water Level. All structure locations shall be approved by the Zoning Administrator.
- B. Any owner who constructs a year-round structure shall purchase two (2) lots.

2. CITY OF HADLEY SHORELAND MANAGEMENT

In addition to the shoreland development standards established in this Article, the following exceptions apply only to shoreland development within the Municipal Boundary of the City of Hadley, in Leeds Township T106N, R42W, Section 11, Summit Lake 51-68, a Natural Environment Lake.

- A. Zoning District. The shoreland overlay district of the City of Hadley is adopted pursuant to the Memorandum of Understanding between the County of Murray and the City of Hadley, originally executed on November 5, 2013, as amended.
  - 1) The Shoreland Management District shall apply to all shoreland of Summit Lake within the jurisdiction of the City of Hadley.
- B. Lot area and width standard. The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex, and quad residential lots created after the date of enactment of this Ordinance for Summit Lake are the following:

Lot Area and Width Standard	Area	Width (in feet)
1) Riparian		
a) Single	40,000	125
b) Duplex	70,000	225
2) Non-Riparian		
a) Single	20,000	125
b) Duplex	35,000	220
c) Triplex	52,000	315
d) Quad	65,000	410
3) Conservation Subdivision		
a) Single	30,000	125

- C. Placement, design, and height of structures. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high-water level, provided the proposed building site is not located in a shore impact zone.
- 1) All structures, except water-oriented accessory structures, must meet the following setback requirements on standard sized lots:
    - a) One hundred-ten (110) feet from the Ordinary High-Water Level
    - b) Thirty (30) feet from City or Township Road Right-of-Ways, Public Street or other roads or streets not classified
    - c) Fifty (50) feet from County or State Road Right-of-Ways
    - d) Ten (10) feet from side yard setbacks for standard lots
    - e) Setback Averaging will be used to determine the setback to the lake or to the road, with structures not located within the shore impact zone.
  - 2) All structures, except water-oriented accessory structures, must meet the following setback requirements on substandard lots:
    - a) All substandard lots must have side yard setbacks that are ten percent (10%) of the lot width, or not less than five (5) feet.
    - b) No construction within the designated shore impact zone except water-orientated accessory structures, observation patios, or observation decks.
- D. Stormwater Management
- 1) Impervious surface coverage of lots within the City of Hadley Shoreland Management, must not exceed twenty-five percent (25%) of the lot area.
    - a) Exception. Lots exceeding twenty-five percent (25%) impervious surface coverage, may apply for and be granted zoning certificates to repair, replace, restore, maintain, or improve existing structures, not including expansion except as set forth in Section 1214.2D1b of this Article, without meeting the setback, height, and other requirements of Article 12 of this Ordinance, including the twenty-five percent (25%) impervious surface limit.
    - b) Compliance. Lots exceeding twenty-five percent (25%) impervious surface coverage may not add to or expand the outside dimensions of an existing structure, or be granted a variance, conditional use permit, or grading and filling permit, without meeting the setback, height, and other requirements of Article 12 of this Ordinance, including the twenty-five percent (25%) impervious surface limit.

## **ARTICLE 13 “CLR” CLOSED LANDFILL RESTRICTED OVERLAY DISTRICT**

### **SECTION 1301. PURPOSE**

The Closed Landfill Restricted (CLR) Overlay District is intended to apply to former landfills that are qualified to be under the Closed Landfill Program of the Minnesota Pollution Control Agency (MPCA). The purpose of the District is to limit uses of land within the closed landfill, both actively filled and related lands, to minimal uses in order to protect the land from human activity where response action systems are in place and, at the same time, are protective of human health and safety. This district shall only apply to the closed landfill’s Land Management Area (LMA), the limits of which are defined by the MPCA. This overlay district shall apply whether the landfill is in public (MPCA, County, City, Township), or private ownership. The Closed Landfill Use Plan – Murray County Landfill report dated December 28, 2012, or as amended by the MPCA is adopted by reference as part of the CLR Overlay District.

### **SECTION 1302. PERMITTED USES**

The following uses shall be permitted within the “CLR” Closed Landfill Restricted Overlay District subject to the general regulations contained in Article 17 of this Ordinance:

1. Closed Landfill management as identified in the Closed Landfill Use Plan.

### **SECTION 1303. ACCESSORY USES**

The following uses shall be allowed in the “CLR” Closed Landfill Restricted Overlay District subject to the general regulations contained in Article 17 of this Ordinance:

1. Outdoor equipment or small buildings used in concert with gas extraction systems, other response action systems, monitoring wells or any other equipment designed to protect, monitor or otherwise ensure the integrity of the landfill monitoring or improvement systems. Fences and gates are permitted under these provisions.
2. Accessory buildings for uses other than the landfill management must be located outside of the Methane Gas Area of Concern.

### **SECTION 1304. CONDITIONAL USES**

Conditional uses shall be limited to uses that do not damage the integrity of the Land Management Area and that continue to protect any person from hazards associated with the landfill. Any application for a conditional use must be approved by the Commissioner of the MPCA and the County. Such approved use shall not disturb or threaten to disturb, the integrity of the landfill cover, liners, any other components of any containment system, the function of any monitoring system that exists upon the described property, or other areas of the Land Management Area that the Commissioner of the MPCA deems necessary for future response actions.

The following conditional uses are permitted within the CLR Overlay District following the procedures set forth in Article 29 of this Ordinance and further subject to the general regulations contained in Article 17 of this Ordinance:

1. Any conditionally permitted Renewable Energy System as regulated in the Murray County Renewable Energy Ordinance.

#### SECTION 1305. PROHIBITED USES AND STRUCTURES

All other uses and structures not specifically allowed as conditional uses, or that cannot be considered as accessory uses, shall be prohibited in the CLR Overlay District.

#### SECTION 1306. GENERAL REGULATIONS

Requirements for site design and other regulations related to the uses of the property are those specified by this Article and Article 17, of this Ordinance. Any amendment to this Article of the Ordinance must be approved by the Commissioner of the MPCA and the Board.



## **ARTICLE 14 “AP” AIRPORT OVERLAY DISTRICT**

### **SECTION 1401. PURPOSE.**

The purpose of the airport overlay district is to identify a specific area, in the vicinity of the Slayton Municipal Airport where there are more restrictive regulations and restrictions of objects, natural growth, and structures which can cause a hazard for airport users as well as the property or occupants in the airport vicinity.

### **SECTION 1402. AUTHORITY**

The Slayton, Murray County Joint Airport Zoning Board was created and established by joint action of the city of Slayton and the Board of County Commissioners of Murray County pursuant to the provisions and authority of Minnesota Statutes 360.063 or successor statutes and has oversight of the more restrictive zoning controls within the Airport Overlay District through use of the regulations in the Slayton Municipal Airport Zoning Ordinance.

## ARTICLE 15 “DWM” DRINKING WATER MANAGEMENT OVERLAY DISTRICT

### SECTION 1501. STATUTORY AUTHORIZATION, PURPOSE AND INTENT

1. Statutory Authorization. This Drinking Water Management Overlay District is adopted pursuant to the authorization and policies contained in Minnesota Statutes 103H, or successor statutes, Minnesota Rules 4720.5100 to 4720.5590, or successor rules, and the 1989 Groundwater Protection Act.
2. Purpose. Murray County recognizes that many residents rely on groundwater for their safe drinking water supply, and that certain land uses can contaminate groundwater particularly in shallow/surficial aquifers. The purpose of the DWM Overlay District is to protect public health and safety by minimizing contamination of shallow/surficial aquifers and preserving and protecting existing and potential sources of drinking water supplies.
3. Intent. It is the intent of this DWM Overlay District to create appropriate land use regulations, in addition to those currently imposed by existing zoning districts or other county regulations, that shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities/uses allowed in the underlying zoning districts which fall within the DWM Overlay District, must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the DWM Overlay District. This overlay district implements the following Murray County Comprehensive Plan goals:
  - A. Natural Resource Base and Environmentally Sensitive Lands are Protected. (Goal D.1)
  - B. Ground and Surface Water is Protected and Preserved. (Goal D.2)
  - C. Drinking Water, Wastewater and Solid Waste Disposal Needs are Met. (Goal E.3)
  - D. Natural Resources are Conserved in Balance with Agriculture and Urban Development (Goal F.2)

### SECTION 1502. GENERAL PROVISIONS

1. District Application. The DWM Overlay District shall be an overlay district and shall be superimposed on all zoning and overlay districts. The standards contained in the DWM Overlay District shall be in addition to any other requirements set forth in this Ordinance. If the district standards are conflicting, the more restrictive standards shall apply.

### SECTION 1503. DRINKING WATER MANAGEMENT OVERLAY ZONES

1. There is established a DWM Overlay District that is composed of the following two (2) zones and the boundaries of the zones are identified on the official zoning map:
  - A. Emergency Response Area (ERA).
  - B. Drinking Water Supply Management Area (DWSMA).

## SECTION 1504. PERMITTED, CONDITIONAL, INTERIM, AND ACCESSORY USES

Permitted, conditional, interim, and accessory uses are those uses set forth in the underlying zoning districts, except as may be restricted by the standards listed in this Article.

1. Permitted or Conditional Uses. All permitted and conditionally permitted uses in the underlying zoning district, including the following: public water supplier facility buildings, water storage tanks, disinfection equipment, disinfection chemical storage and approved landscaping, within ERA and DWSMA Zones, shall require a conditional use permit, unless specifically prohibited in Section 1504.3 of this Article.
2. Interim Uses. All interim permitted uses in the underlying zoning district, within ERA and DWSMA Zones, shall require an interim use permit, unless specifically prohibited in Section 1504.3 of this Article.
3. Prohibited. The following uses shall be and are prohibited within the ERA and DWSMA zones:
  - A. Sanitary and/or demolition landfill.
  - B. Hazardous waste disposal facility.
  - C. Injection well is a prohibited use except for the following: Closed Systems

## SECTION 1505. DEVELOPMENT STANDARDS AND PROHIBITIONS

1. Stormwater Management. Stormwater management within all DWM Overlay District zones shall comply with Minnesota Pollution Control Agency National Pollutant Discharge Elimination System (NPDES) requirements.
2. Sewage Treatment. Except for single-family residences, all other developments shall be connected to public sewage treatment and water supply systems, if available.
3. Aggregate Mining.
  - A. Expansion. Expansion of existing aggregate mining operations shall be prohibited in ERA zones.
  - B. New and Expansions. New and expansions of existing aggregate mining operations shall be considered as a conditional use permit in DWSMA zones with the following additional standards:
    - 1) Surface water runoff shall be controlled to avoid infiltration within all vulnerable portions of the DWSMA zones of a public water supply well.
    - 2) Subsurface Sewage Treatment Systems shall be excluded from the one (1)-year time of travel area of a DWSMA.
    - 3) Fuel storage and refueling operations shall not occur in areas where geologic cover has been removed or in mining areas unless conducted on an impervious pad with spill containment.
    - 4) Only above ground storage tanks shall be allowed with approved containment, including secondary containment.
    - 5) All tanks, regardless of size, must meet MPCA rules or regulations that apply to tanks with capacity greater than 1,100 gallons.
    - 6) An emergency spill response plan shall be in place that identifies:
      - a) How a response to a spill will be implemented,
      - b) The parties that will be involved, and
      - c) How the public water supplier will be informed.

- 7) Equipment may be stored or serviced in vulnerable portions of a DWSMA if conducted on an impervious pad.
- 8) Spraying of truck boxes with oil may be conducted within the vulnerable portions of a DWSMA if located on an impervious pad with secondary containment.
- 9) Waste material may be stored and processed within vulnerable portions of a DWSMA if conducted on an impervious pad with secondary containment.
- 10) A copy of any Dewatering Permit or any Groundwater Appropriation Permit as required by MN DNR prior to any use of a high capacity well associated with a mining extraction, or aggregate processing operation, shall be provided to the Murray County Environmental Services Office.
- 11) No Underground Injection Well or Class V Injection Wells shall be located in DWSMA.
- 12) Reclamation Plans.
  - a) Surface water runoff shall be controlled to avoid infiltration within all vulnerable portions of a DWSMA or a public water supply well.
  - b) Onsite sewage treatment systems shall be excluded from the one (1)-year time of travel area of a DWSMA.
  - c) In areas where protective or geological cover has been removed, no long term storage of fuel and petroleum products will be allowed in order to reduce the potential for leaking oil, fuel, hydraulic fluid, antifreeze, or other automotive fluids to enter aquifer materials.
  - d) A copy of any Dewatering Permit or any Groundwater Appropriation Permit as required by MN DNR prior to any use of a high capacity well associated with a mining extraction, or excavation operation, shall be provided to the Department.
  - e) No Underground Injection Well or Class V Injection Wells shall be located in sensitive areas.
  - f) Plans for reclaiming land that is mined, extracted, or excavated of geological cover shall address how future land use or the surface-water drainage or runoff will be controlled to reduce the direct infiltration of contaminants into the aquifer.
  - g) Reclamation shall be phased in as mining, extraction, or excavation progresses, with public water supply wells time of travel areas having the highest priority for reclamation.
  - h) Vegetation used for reclamation shall be native species or similar species that do not require regular or seasonal applications of nutrients or pesticides.
4. Other Associated Mining Activities.
  - A. An asphalt batch plant and related activities may be located within the vulnerable portions of a sensitive area if located on an impervious pad with secondary containment.
  - B. Storage and processing of recycled bituminous materials may be allowed within the vulnerable portions of a DWSMA if conducted on an impervious pad with secondary containment.
5. New and Expansions to Existing Feedlots.
  - A. ERA Zone. New and expansions to existing feedlots in the ERA zone are prohibited.
  - B. DWSMA Zones. All new and expansions of existing feedlots must be processed as a conditional use permit.

6. Manure and Commercial Fertilizer Applications. All manure and commercial fertilizer applications in ERA and vulnerable DWSMA Zones must comply with the setbacks and the nutrient rate requirements of the Minnesota Pollution Control Agency and the Minnesota Department of Agriculture.

#### SECTION 1506. ABANDONED WELLS

Unused or improperly abandoned wells can become a direct conduit for contamination of groundwater. Therefore, all unused wells shall be properly abandoned and sealed according to the Minnesota Department of Health Well Code regulations.

#### SECTION 1507. NONCONFORMITIES

Continuance of Nonconformities: All legally established nonconformities as of the date of this Ordinance may continue, but will be managed according to Minnesota Statutes, Sections 394.36 Subd. 5, or successor statutes, and other regulations of Murray County for alterations and additions; repair after damage; discontinuance of use; and intensification of use.

**ARTICLE 16 RESERVED**

## ARTICLE 17 GENERAL REGULATIONS

### SECTION 1701. GENERAL REGULATIONS

The guiding of land development into a compatible relationship of uses depends upon the maintenance of certain standards. In the various use districts, the permitted, accessory, conditional uses, and interim uses shall conform to the standards enumerated in this Article.

### SECTION 1702. PARKING AND LOADING

#### 1. Standards.

- A. Parking spaces for residential parking shall be on the same lot as the residential dwelling.
- B. No parking facilities accessory to residential structures may be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or manufacturing establishments.
- C. Off-street parking areas in any district shall not be utilized for open storage of goods or for the storage of vehicles that are inoperable, for sale or for rent.

#### 2. Design and Maintenance of Off-street Parking Areas requirements.

- A. A parking space shall be at least ten (10) feet wide and twenty (20) feet long. Each space required constitutes a gross area of 300 square feet.
- B. Existing off-street parking spaces existing on or before the effective date of this Ordinance shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar use.
- C. Off-street parking areas shall be improved with a durable and dustless surface. Durable and dustless surface may include crushed rock and similar treatment. Parking areas for six (6) or fewer vehicles shall be exempt from the provisions of this Section.
- D. All lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property and right-of-ways.

#### 3. Off-street parking areas shall be of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees and shall be provided on the premises of each use according to the following. When the calculation of the number of parking spaces required results in a fraction, the parking spaces required shall be increased to the nearest whole number.

##### A. Churches and Schools

- 1) One (1) space per four (4) seats, based on maximum design capacity in principal assembly room

##### B. Eating and Drinking Establishments

- 1) One (1) space per 150 square feet of gross floor area.

##### C. Golf Courses

- 1) Five (5) spaces per hole, plus one (1) space per ten (10) seats in the club house.

- D. Hotels and Motels
    - 1) One (1) space per unit.
  - E. Industrial Uses.
    - 1) One (1) space per two (2) employees on the major shift; or
    - 2) One (1) space per 2,000 square feet of gross floor area, whichever is greater.
  - F. Offices and Clinics
    - 1) One (1) space per 300 square feet of gross floor area.
  - G. Residential Uses
    - 1) Two (2) spaces per dwelling unit.
  - H. Retail and Service Establishments
    - 1) One (1) space per 300 square feet of gross floor area.
  - I. Service Stations/Convenience Stores
    - 1) One (1) space per service bay, plus one (1) space per 300 square feet of gross floor area.
  - J. Uses Not Specifically Noted
    - 1) As determined by the Zoning Administrator based on a parking study and/or industry standards.
4. In the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this Section. Parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use except that the Planning Commission or Board may consider the joint use of a parking area where it is known that because of a time element, the parking facilities will not be needed by more than one (1) of the users at one (1) time.
  5. Off-street loading spaces. One (1) off-street loading berth of not less than thirty-five (35) feet by ten (10) feet shall be provided for every business and industrial use with a floor area of more than ten thousand (10,000) square feet; with one (1) additional berth required for each additional twenty-five thousand (25,000) square feet of floor area.

#### SECTION 1703. PERFORMANCE STANDARDS

The following regulations shall apply to all uses in all zoning districts. Determination of potential or actual non-compliance with these regulations shall be made as required by the Board, which may obtain a qualified consultant to testify.

1. Relationship to Other Laws. Regardless of any other provision of this Ordinance, no land shall be used, and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.
2. Noise. Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence beat frequency, shrillness or intensity, except for noise from agricultural sources. Noise generated by agricultural use shall be exempted.



3. Vibration. Any use creating periodic earth-shaking vibrations shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. This standard shall not apply to vibrations created during the process of construction.
4. Glare and Heat. Any use producing intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located.
5. Smoke and Particulate Matter. Any use established, enlarged or remodeled after the effective date of this Ordinance shall be so operated as to meet the minimum requirements of the Minnesota Pollution Control Agency for the emission of smoke or particulate matter.
6. Odors. Any use established, enlarged, or remodeled shall be so operated as to prevent the emission of odorous matter of such quantity as to be readily detectable at any point beyond the lot line of the site on which such use is located. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit, except odors from agricultural sources unless regulated by any State or Federal Law or Regulation.
7. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining properties and roadways.
8. Toxic or Noxious Matter. Any use established shall be so operated as not to discharge across the boundaries of the lot or through percolation into the subsoil beyond the boundaries of the lot wherein such use is located, toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.
9. Explosives. Any use requiring the storage, utilization or manufacturing of products, which could explode by detonation, shall be located not less than 400 feet from any residence. This Article shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes.
10. Radiation Emission. All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.
11. Electrical Emission. All activities, which create electrical emissions, shall comply with the minimum requirements of the Federal Communications Commission.
12. Visual Standards.
  - A. Screening.
    - 1) Where any business or industrial use is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential area, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator.
    - 2) The screening required herein shall consist of a solid fence or wall at least fifty percent (50%) of opaque not less than five (5) feet or more than six (6) feet in height but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed along the property lines or in case of screening along a street, fifteen (15) feet from the street right-of-way with landscaping, between the screening and the pavement.

13. Drainage Standards. No land shall be developed, and no use shall be permitted that result in water run-off causing flooding, or erosion on adjacent properties. Such run-off shall be properly channeled into a storm drain, watercourse, ponding area, or other suitable facility.
14. Exterior Storage. In residential districts, all materials and equipment shall be stored within building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks. Boats and unoccupied trailers, less than twenty (20) feet in length, are permissible if stored in the rear yard more than ten (10) feet from the property line. In all districts, the County may require a Conditional Use Permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a threat to living amenities.
15. Refuse. In all districts, all waste material, with the exception of animal manure and crop residue debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.
16. Compliance. In order to insure compliance with the performance standards set forth above, the Board may require investigations and tests to demonstrate adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the County. Should non-compliance with these standards be determined, the owner of the property shall be liable for the costs of said investigations and tests.

#### SECTION 1704. ACCESSORY USES AND BUILDINGS

In addition to any standards in the individual zoning districts the following provisions shall apply to accessory uses.

1. Roadside stands for sale of agricultural products shall be permitted if:
  - A. They are erected at least one hundred (100) feet back from the centerline of roadway.
  - B. They are used exclusively for the sale of agricultural products.
  - C. Parking space is provided off the road right-of-way.
2. Every in-ground swimming pool shall be enclosed by a fence or wall not less than four (4) feet high to prevent uncontrolled access.
3. The exterior storage of not more than five (5) motor vehicles which do not have a current license plate shall be considered an accessory use, but six (6) or more shall constitute an auto salvage business and shall not be permitted as an accessory use.

## SECTION 1705. TEMPORARY STRUCTURES ON CONSTRUCTION SITES

1. Residential
  - A. Temporary structures and trailers used in conjunction with construction work shall be permitted only during the period of construction and are allowed without a permit.
2. Non-Residential
  - A. Temporary structures for non-residential purposes only may be allowed by permit by the Zoning Administrator. The permit shall specify the location of the temporary structure and the length of time of its issuance. The Zoning Administrator may renew the permit for additional six (6) month periods, not to exceed two (2) years.
  - B. Construction Office: The storage of building supplies and machinery, temporary storage buildings and customary trade, contractor, or architect's identification signs in connection with a construction project may be authorized by the Zoning Administrator for a period of up to twelve (12) months.
  - C. In any event, the temporary structures and debris shall be removed within six (6) months after completion or abandonment of the work. Temporary buildings for uses incidental to construction work shall be removed promptly upon completion or abandonment of work and returned to pre-construction condition.
  - D. The temporary construction site shall have adequate sanitary facilities on the site.
  - E. The buildings and parking spaces shall adhere to all setbacks for the zoning district and shall only utilize the permitted access driveway.
  - F. The- buildings shall not be used as dwelling units.

## SECTION 1706. HOME OCCUPATIONS

1. Home occupations may be allowed either as permitted or interim uses subject to the following provisions:
  - A. Permitted Home Occupations in the AGRICULTURAL DISTRICT. The following standards shall apply to permitted home occupations in the AGRICULTURAL DISTRICT.
    - 1) No more than one (1) person other than a member of the family occupying the premises shall be employed in conjunction with a permitted home occupation.
    - 2) The home occupation shall be incidental and/or subordinate to the use of the premises for farming and related farm activities.
    - 3) The conduct of a home occupation may be carried on in accessory buildings not to exceed a total of two thousand (2,000) square feet in gross floor area.
    - 4) No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.
    - 5) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises.
  - B. Interim Use home occupations in the AGRICULTURAL DISTRICT. The following home occupations shall require an Interim Use Permit when operated in an AGRICULTURAL DISTRICT:

- 1) Home occupations employing more than one (1) non-resident employee on the premises.
  - 2) Home occupations carried on in an accessory building greater than two thousand (2,000) square feet of gross floor area.
- C. Standards for Interim Use Permitted Home Occupations. The following standards shall apply to interim use permitted home occupations in the AGRICULTURAL DISTRICT:
- 1) The number of employees employed in conjunction with a conditionally permitted home occupation shall be determined by the Planning Commission.
  - 2) The home occupation shall be incidental and/or subordinate to the use of the premises for farming and related farm activities.
  - 3) The conduct of a home occupation may be carried on in an accessory building the size of which shall be determined by the Planning Commission.
  - 4) No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.
  - 5) No equipment or process shall be used in such home occupation to create noise, vibration, glare, fumes, odors, or electrical interference's detectable off the premises.
- D. Home Occupations in the RESIDENTIAL DISTRICTS. The following standards shall apply to home occupations when operated in the RESIDENTIAL DISTRICTS:
- 1) No more than one (1) person other than a member of the family occupying the dwelling shall be employed in conjunction with the home occupation.
  - 2) There shall be no change in the outside appearance of the dwelling unit or the premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding twelve (12) square feet as regulated in Article 20 of this Ordinance.
  - 3) Gross square footage devoted to the conduct of any home occupation shall not exceed five per cent (5%) of the total lot area.
  - 4) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street in other than any required yard.
  - 5) No equipment or process shall be used in such home occupation, which creates noise vibration, glare, fumes, odors or electrical interference's detectable beyond the limits of the dwelling.

## SECTION 1707. MOBILE HOMES AND MOBILE HOME PARKS

1. Purpose. To regulate the individual mobile homes and mobile home parks.
2. Individual Mobile Homes located outside of a mobile home park will be treated in much the same manner as the single-family home, recognizing that the mobile home as it is now used, is similar in most but not all respects to the single-family home.
  - A. The individual mobile home will be given the same privileges and will be placed under the same controls as provided in this Ordinance as applied to single family homes, except:
    - 1) All mobile homes shall be skirted between the bottom of the mobile home and the ground with a fireproof material harmonious with the appearance of the mobile home within three (3) months of the placement of the mobile home. Hardboard, cardboard or baled hay or straw shall be prohibited.
    - 2) Steps and stoops shall be of acceptable wood, metal, or concrete construction.
    - 3) Storm entries and porches must be of durable materials harmonious in appearance with the mobile home.
    - 4) Each mobile home not having a garage shall have an outside storage building of at least five foot by seven foot by six foot (5' x 7' x 6') in height.
    - 5) The mobile home stand shall be at such elevation, distance and angle relative to the street and driveway that placement and removal of the mobile home with a car, tow truck, or customary moving equipment is practical. The mobile home stand shall have a longitudinal grade of less than four percent (4%) and traverse crown or grade to provide adequate surface drainage. The stand shall be compacted and surfaced with a material, which will prevent the growth of vegetation while supporting the maximum anticipated loads during all seasons.
3. In districts allowing mobile home parks, the following requirements shall be met:
  - A. Mobile home parks shall be licensed by the Minnesota Department of Health and shall have a centralized sewage disposal facility, which meets the standards and regulations of the Minnesota Department of Health and the Pollution Control Agency.
  - B. Each mobile home site shall be at least 5,000 square feet in area.
  - C. There shall be at least twenty (20) feet between adjacent mobile homes.
  - D. A recreational area, or areas, with suitable facilities shall be maintained within the mobile home park for the use of all residents. A minimum of five percent (5%) of the gross area of the park shall be provided for recreational space.
  - E. The mobile home park management shall maintain a current register containing the names of all park occupants, the license and number of each mobile home, and the date of arrival and departure of each mobile home. The park shall keep the register available for inspection by County law enforcement officers whose duty necessitates examining the information contained in the register.
  - F. The area of land to be developed is not less than five (5) acres.

- G. A site plan of the proposed mobile home park shall be submitted drawn to scale and showing the following information:
- 1) Legal description and size of proposed site.
  - 2) Location and size of all mobile home sites, dead storage areas, roadways, parking sites, setback dimensions (mock-up of court or park).
  - 3) Location and size of all patios and sidewalks.
  - 4) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, heating service, telephone service.
  - 5) Plans for garbage and refuse collection and disposal.
  - 6) Location and size of all streets and/or highways in and abutting the mobile home court or park.
  - 7) Location and size of all means of ingress and egress from the mobile home court or park.
  - 8) Road or street construction plans and/or specifications.
  - 9) Plans for any and all structures.

#### SECTION 1708. RECREATIONAL VEHICLES

The following provisions shall apply to all recreational vehicles:

1. Recreational Vehicles shall meet all structural setback and impervious surface requirements of this Ordinance.
2. An individual lot owner shall be limited to the storage of one (1) recreational vehicle unit per lot.
3. All recreational vehicles stored or in use must be currently licensed.
4. A recreational vehicle used as the principal structure and located on a lot for more than thirty (30) days in any year shall be considered a dwelling unit and must have a zoning permit and must be connected to a public sewer system or an SSTS.
5. The parking of one (1) recreational vehicle by a guest on the property with a permanent dwelling or a recreational vehicle considered a dwelling, shall be allowed on a seasonal basis from May thru December via an annual zoning permit. Said guest recreational vehicle must be connected to a public sewer or an SSTS.

#### SECTION 1709. JUNK/SALVAGE YARDS AND AUTOMOBILE WRECKING

The following provisions shall apply to all junk/salvage yards:

1. All junk/salvage yards shall be completely screened from roads or adjacent uses by natural or manmade means. Screening shall be maintained in good condition. All existing junk/salvage yards shall comply with these requirements.
2. No junk/salvage yard shall be located closer than 1,000 feet to existing State and Federal roads, nor closer than 300 feet to any County or Township right-of-way.
3. Access to and egress from junk/salvage yards shall not be from State and Federal roads.

## SECTION 1710. RECYCLING FACILITIES

The following provisions shall apply to all recycling facilities:

1. County must grant Conditional Use Permit prior to request to MPCA for permit by rule.
2. A Conditional Use Permit for a recycling facility shall be subject to review by the Planning Commission when three (3) or more documented complaints are received by the Zoning Administrator.
3. Records relating to the volume of recycled material processed at the facility must be supplied quarterly to the County Solid Waste Officer.
4. All material stored outside the building must be stored in an aesthetic and nuisance free manner.
5. The owner/operator of the recycling facility must comply with MN Rules 7035.2845, or successor rules which govern facility design and operation, and subject to change with MN Rules.

## SECTION 1711. EXCEPTIONS AND MODIFICATIONS TO THE ZONING DEVELOPMENT STANDARDS

1. Height limitations set forth elsewhere in this Ordinance, with the exception of the Airport Overlay District, may be increased by one hundred percent (100%) when applied to the following:
  - A. Monuments.
  - B. Flag Poles.
  - C. Cooling towers.
  - D. Elevator penthouse.
  - E. Windmills.
2. Height limitations set forth elsewhere in this Ordinance, with the exception of the Airport Overlay District may be increased with no limitation when applied to the following:
  - A. Church spires, belfries or domes which do not contain useable space.
  - B. Water towers.
  - C. Chimneys or smokestacks.
  - D. Radio or television transmitting towers or other communications apparatus.
  - E. Essential service structures.
  - F. Wind Turbines.
  - G. Meteorological Towers.
3. Sight triangle. The required front yard of any lot shall not contain any wall, fence or structure, tree or shrub or other growth, which may cause danger to traffic on the road by obscuring the view.
4. Snow hazard. To avoid the creation of snow hazards the placement of any temporary structure, fence or material, including crop residues, shall not be located within fifty (50) feet of any road right-of-way.

5. Separation Distance from Feedlots.
  - A. Dwelling units, commercial uses and/or industrial uses shall be located no closer to an existing feedlot than a new feedlot can be placed to an existing dwelling unit, commercial use, and/or industrial use. (Refer to Article 24, or this Ordinance for distance separation)
  - B. All plats approved and recorded prior to the adoption of the revised Murray County Feedlot Regulation dated March 21, 1994 shall be exempt the requirements in Section 1711.6A of this Article.
6. Exemptions from Zoning Certificates.
  - A. Entrance steps to dwellings with a landing no larger than twenty-five (25) square feet.
  - B. Agricultural Concrete Fences
  - C. Agricultural Feed Bunks

#### SECTION 1712. DISABILITY ACCESSIBILITY CODE

When applicable, structures and/or facilities shall meet the accessibility portion of the State Building Code, Minnesota Rules, Chapter 1341; or successor rules.

#### SECTION 1713. PERFORMANCE STANDARDS FOR TEMPORARY DWELLING FOR SUPPORTIVE CARE

A temporary dwelling for supportive care shall be subject to the administration requirements for interim uses in Article 30 of this Ordinance and the following performance standards:

1. The temporary dwelling shall be accessory to the principal dwelling.
2. The temporary dwelling shall be located in the existing building site.
3. The temporary dwelling shall meet the setback requirements of the applicable zoning district.
4. The applicant shall submit with the application and annually thereafter a statement signed by a medical professional certifying that the occupant(s) of either the temporary dwelling or the permanent dwelling suffers from health problems that would necessitate supervised care and attention. The statement shall describe the need that makes it necessary for the family member to live on the same parcel.
5. The temporary dwelling shall be limited to a manufactured home, which shall be maintained as highway ready, and shall be removed when no longer needed as a residence. Highway ready shall mean having the manufactured home on wheels or having the internal jacking system attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks. The manufactured home shall have no permanent structural additions attached.
6. The temporary dwelling shall use the existing road access drive of the principal dwelling.
7. The temporary dwelling shall be connected to an approved on-site sewage treatment system or centralized sewer system.
8. The temporary dwelling shall bear a Seal of Compliance issued by the State of Minnesota.
9. Upon termination of the interim use permit, the temporary dwelling shall be removed from the premises within thirty (30) days.



10. A temporary dwelling shall not be considered in the calculation of any residential density determination required by this Ordinance.
11. A property or parcel shall only be allowed one (1) temporary dwelling.
12. A temporary dwelling shall not be located on a property that is located in the Shoreland Overlay or Floodplain Overlay Districts.

## **ARTICLE 18 ESSENTIAL SERVICES**

### **SECTION 1801. SCOPE OF REGULATIONS**

For purposes of this Ordinance essential service facilities shall be classified into two (2) categories (major and minor essential service facilities) and regulated according to the procedures described herein.

### **SECTION 1802. EXEMPT FROM REGULATIONS**

Required maintenance or rebuilding of any major or minor essential service facility, when such maintenance or rebuilding does not expand the capacity or change the capability or location of the existing facility, shall be exempt from the regulation of this Article.

### **SECTION 1803. MINOR ESSENTIAL SERVICES**

All underground telephone lines, pipelines for local distribution, underground transmission lines, overhead utility lines, and electric transmission lines less than 35kv, as well as public utility buildings not customarily considered industrial in use are minor essential services, and are permitted uses in all zoning districts subject to the following:

1. Before construction of any essential services, the owner shall file with the Zoning Administrator such maps and drawings of the proposed service relating to site location as shall be requested. The Zoning Administrator shall consult the County Engineer and make suggestions to the owner as to modifications considered desirable under this Ordinance.
2. Essential Service located in right-of-way requires a permit from the road authority.
3. Essential Service is located outside of the right-of-way
4. Any essential service line located outside of the right-of-way shall meet a 150-foot setback from center line of road, unless the owner of the utility has submitted a signed, notarized agreement with the road authority to relocate their utility, at their cost, if the road is upgraded.
5. The County Engineer may require in conjunction with the issuance of a permit, that the applicant submit as-built drawings of the essential service after construction.

### **SECTION 1804. MAJOR ESSENTIAL SERVICES**

A Conditional Use Permit shall be required for all transmission pipelines (i.e., pipelines not required for local distributing network), overhead transmission and substation lines in excess of 35 kv, electrical substations and similar essential services structures, and sewage lagoons shall be subject to the following procedural requirements. Unless specifically exempted herein, all activities in this Article shall be conducted only under a conditional use permit issued pursuant to Article 29 of this Ordinance.

1. The applicant shall, on forms provided by the county, file an application, with the Zoning Administrator. The application shall include such maps indicating location, alignment, and type of service proposed, together with the status of any applications made or required to be made under state or federal law to any state or federal agency. The application shall provide the name, address and telephone number of a contact person to which post construction inquiries related to exact location and depth of essential service facilities may be addressed. The application, in the case of pipelines other than water, shall outline a contingency plan including steps to be taken in the event of a failure, leak, or explosion occurring during operation of the pipeline. The operator of the pipeline shall demonstrate its capability and readiness to execute the contingency plan. The county shall have sixty (60) days from the date of initial completed application to accept, reject or modify the application.
2. One set of the information required in Section 1804.1 of this Ordinance shall be furnished to the County Engineer, who shall review the information and forward his comments and recommendations to the County Planning Commission and County Board.

#### SECTION 1805. PROVISIONS FOR MAJOR ESSENTIAL SERVICE CONSTRUCTION

1. Conditions. The following conditions shall apply to major essential service lines:
  - A. All drainage facilities and patterns shall be repaired to pre-construction condition as soon as possible after construction.
  - B. Rocks, slash and other construction debris shall be removed from each individual section of land where construction takes place within ninety (90) working days of the commencement of major essential service construction on that individual section of land. For purposes of this subsection, working days are defined as: all days except days between November 15 and April 15 (winter), or any day when more than one-half (1/2) inch of precipitation has fallen. For purposes of this subsection, section of land is defined as a numbered section as defined by the Government Land Survey, or a portion thereof.
  - C. Shelterbacks, windbreaks, fences and vegetation shall be restored to pre-construction condition with the following exceptions.
    - 1) Shelterback and windbreak replacement shall be to pre-construction density and may allow for operation maintenance of essential service lines.
    - 2) Critical areas (slopes greater than twelve percent (12%), drainage ditch banks and areas subject to severe erosion) shall be seeded and mulched as soon as possible after construction. Drainage ditch banks shall be seeded and mulched a minimum of sixteen and one-half (16 ½) feet in width from the top of the ditch spoil banks on each side of the ditch.
  - D. If preliminary engineering, surveys or other documentation is provided, modifications to accommodate future drainage or roadway construction activities may be required.
  - E. Major essential service construction activities shall be conducted in such a manner as to minimize impacts on livestock movements and access to agricultural fields.

## 2. Setbacks

- A. Any essential service line not located within the County and/or Township Road Right Of Way shall meet a 150 feet setback from center line of road, unless the owner of the utility has a signed, notarized agreement with the road authority to relocate their utility, at their cost, if the road is upgraded.
- B. Any essential service structure must meet the setbacks of the Zoning District in which it is located.

## ARTICLE 19 TELECOMMUNICATION TOWERS

### SECTION 1901. PURPOSE

These regulations are intended to:

1. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in the County;
2. Minimize adverse visual effects of towers through careful design and citing standards;
3. Avoid potential damage to adjacent properties from tower or antenna failure and weather-related occurrences through structural standards, careful citing, and setback requirements;
4. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the County.

### SECTION 1902. PERMITS

All telecommunication towers shall require a conditional use permit as regulated in Article 29 of this Ordinance, except, antennas incidental to residential use; or the addition of an antenna or antennas on existing structures including, but not limited to, buildings, flag poles, church steeples, cupolas, ball field lights, and power lines support devices, where no modifications are required to the existing structure if the antenna does not increase the height of the structure by more than twenty (20) feet. Towers shall be allowed only in Agricultural District, Commercial District and Industrial District.

Applications shall include the following information:

1. A report from a licensed professional engineer that describes the commercial wireless telecommunication service tower's capacity, including the number and type of antennas that it can accommodate;
2. A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of the tower;
3. The location of all public and private airports within a three (3) mile radius of the tower site;
4. An FAA notice of non-hazard;
5. FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed;
6. An erosion control plan for the tower site;
7. A site plan that shows topography, location and size of proposed tower facility, support structures, accessory buildings, access driveways, public roads, parking, fences, signs, setbacks, screening and proposed removal of vegetation.

## SECTION 1903. TOWER AND ANTENNA DESIGN REQUIREMENTS

Proposed or modified towers shall meet the following design requirements:

1. Towers and antennas shall blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities;
2. No tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair;
3. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to applicable state structural building standards;
4. Towers and their antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code;
5. Metal towers shall be constructed of, or treated with, corrosive resistant material;
6. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
7. All towers shall be reasonably protected against unauthorized climbing. The area around the base of the tower and guy wire anchors shall be enclosed by a fence with a minimum height of six (6) feet chain link fence with a locked gate. A minimum of three (3) strands of barbed or razor wire shall be installed on top of the chain link fencing.

## SECTION 1904. TOWER SETBACKS

Towers and all accessory structures or buildings shall conform to the following minimum setback requirements:

1. Towers shall be setback from all property lines an amount equal to the height of the structure. The minimum distance to the nearest dwelling shall be the height of the tower plus one hundred (100) feet
2. Guy wires for towers shall be located no closer than thirty (30) feet to any property line and shall meet the public road right of way setbacks of the district in which it is located.
3. No tower shall be erected within 1,000 feet of the ordinary high-water mark of any public water basin.

## SECTION 1905. CO-LOCATION REQUIREMENTS

All commercial wireless telecommunication towers erected, constructed, or located within the County shall comply with the following requirements:

1. Documentation of the area to be served including a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.
2. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower within the search ring of the service area due to one (1) or more of the following reasons:

- A. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost;
  - B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost;
  - C. Existing or approved towers and buildings within the search radius that are sixty (60) feet or over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer;
  - D. Other foreseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
3. Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and a least three (3) additional antennas if the tower is 200 feet or over in height, or for a least two (2) additional antennas if the tower is under 200 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept mounted at varying heights.
  4. An agreement stating that the site will be designed for multiple users with applicant and property owner commitment to co-location, whereby, any prohibition of additional users on a tower will be considered a violation of the conditional use permit. This agreement shall become a part of the permit.

#### SECTION 1906. ANTENNAS MOUNTED ON EXISTING BUILDINGS OR TOWERS

The placement of telecommunication antennas, including wireless telecommunication antennas on existing buildings, towers or structures, shall meet the requirements of the underlying land use district and this Article. A site plan and building plan must be submitted to the Environmental Services Office as part of the permitting process.

#### SECTION 1907. ACCESSORY UTILITY BUILDINGS

All buildings and structures accessory to a tower shall:

1. Be architecturally designed to blend in with the surrounding environment and shall meet the height and setback limitations as established for the land use district in which they are located.
2. Have ground mounted equipment screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

#### SECTION 1908. TOWER LIGHTING

Towers shall not be illuminated by artificial means only as required by the Federal Aviation Administration or the Federal Communications Commission or state agency.

#### SECTION 1909. ABANDONED OR UNUSED TOWERS

Abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless; a time extension is approved by the Environmental Services Office. Failure to remove the structure shall be cause for the County to remove the tower and associated equipment and assess the cost against the property for collection with the real estate taxes.

#### SECTION 1910. PUBLIC SAFETY TELECOMMUNICATIONS INTERFERENCE

Commercial wireless telecommunications services shall not interfere with public safety telecommunications. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the Environmental Services Office at least ten (10) calendar days in advance of any changes to allow for monitoring of interference levels during the testing process.

#### SECTION 1911. NON-CONFORMING TOWERS

In order to avoid requiring new towers and to minimize the number of towers needed to serve the county the following provisions shall apply to nonconforming towers. Telecommunication towers in existence at the time of the adoption of this Article of the ordinance may be permitted to increase tower height, after being issued a conditional use permit. The Planning Commission shall consider the following criteria as part of the conditional use permit process:

1. Tower safety concerns including tower collapse, falling ice, and airplane traffic;
2. Comparative visual impact to the surrounding lands of the proposed tower height increase;
3. Disturbance or conflict with agricultural uses on the property;
4. Other factors which tend to reduce conflicts or incompatible with the character and need of the area.



## ARTICLE 20 SIGN REGULATIONS

### SECTION 2001. PURPOSE

All signs shall be subject to the standards in Article 20 of this Ordinance and any specific standards set forth in other provisions of this Ordinance.

1. The purpose of this Article is to promote the health, safety, and general welfare of the public and to conserve the natural and scenic views of the County. It is necessary to reasonably and effectively regulate and control the erection of signs while preserving the right of free speech and expression, providing easy and pleasant communication between people and their surroundings and avoiding excessive levels of visual clutter and distraction that are potentially harmful to traffic and pedestrian safety, property values, business opportunities or community appearance. As such, the primary intent of this provision is to regulate signs containing commercial speech intended or capable of being viewed from any vehicle or pedestrian right-of-way. This Article is not intended to and does not restrict, limit, or control the content or message of signs.

### SECTION 2002. GENERAL STANDARDS

1. All signs, other than government signs, are prohibited within public rights-of-way and easements or on any other public property.
2. Illuminated signs may be permitted, but devices giving off an intermittent or rotating beam of light shall be prohibited. Flood lighting shall be focused upon the sign. No lighting for signs shall directly reflect light beams onto any public street or residential structure. Signs shall not be illuminated beyond any lot line.
3. No sign shall, by reason of position, shape or color, interfere in any way with the proper functioning or purpose of a traffic sign or signal.
4. Flashing signs and signs giving off direct light that may be confused with traffic, aviation, or emergency signaling are prohibited.
5. No sign in excess of three (3) square feet per surface with no more than two (2) surfaces shall be less than five hundred (500) feet from the intersection of a public road, provided that a sign may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.
6. All signs shall be set back from the right-of-way of public roads not less than ten (10) feet from the closest part of the sign. All signs shall be set back ten (10) feet from adjacent property lines.
7. No sign shall be erected that imitates any official marker or government sign or that otherwise constitutes a traffic hazard.
8. No sign shall be permitted that obstructs any window, door, fire escape, stairway, or opening intended to provide light, air, ingress, or egress of any building or structure.
9. A Zoning Certificate is required for Off-Premise Signs (Billboards). A Zoning Certificate is not required for any other signs.

### SECTION 2003. SIGNS PERMITTED IN ALL ZONING DISTRICTS

The following signs are allowed in all zoning districts notwithstanding the provisions set forth in Sections 2004 through 2005 of this Ordinance.

1. Subject to Minnesota Statute Section 211.B.045, or successor statute, elective signs containing non-commercial speech may be posted beginning forty-six (46) days before a primary election in a general election year until ten (10) days following the general election.
2. Carvings into stone, concrete or similar materials or made of bronze, steel, aluminum or other permanent type of construction incorporated into the design and structure of a building and containing only non-commercial speech.
3. Signs posted in accordance with Minnesota Statutes, Section 97B.001; or successor statute.
4. Government signs.
5. One (1) sign, not to exceed thirty-two (32) square feet per surface with no sign having more than two (2) surfaces, shall be allowed for each street entrance to a development or municipality.
6. One (1) non-commercial sign per parcel not exceeding thirty-two (32) square feet per surface with no more than two (2) surfaces.
7. For signs on tillable farmland, up to twenty (20) signs not exceeding three (3) square feet per surface, with no more than two (2) surfaces per sign, may be displayed per one hundred (100) feet of lot frontage along a public road no closer than two (2) feet apart when visible from the public right-of-way.

### SECTION 2004. SIGNS PERMITTED IN AGRICULTURAL AND RESIDENTIAL DISTRICTS

1. One (1) non-commercial sign for each parcel not to exceed nine (9) square feet in area per surface and no sign shall be constructed as to have more than two (2) surfaces.
2. One (1) sign for each permitted non-residential use or use by conditional use permit may be allowed. Such signs shall not exceed thirty-two (32) square feet in area per surface and no sign shall be so constructed as to have more than two (2) surfaces. On principle arterial and minor arterial streets, signs in excess of thirty-two (32) square feet may be permitted by conditional use, but in no case shall the total square footage exceed sixty-four (64) square feet per surface or one hundred twenty-eight (128) total square feet.
3. Symbols, statues, sculptures and integrated architectural features on buildings may be illuminated by flood lights, provided the source of light is not visible from a public right-of-way or adjacent property.
4. No sign shall exceed ten (10) feet in height above the average grade level.
5. One (1) temporary sign not exceeding eighty (80) square feet per surface with no more than two (2) surfaces may be displayed on a parcel during the time that the parcel is for sale, available for lease, or under construction.

## SECTION 2005. SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL DISTRICTS

1. One (1) sign for each parcel not to exceed six (6) square feet in area per surface and no sign shall be constructed as to have more than two (2) surfaces.
2. The aggregate square footage of signs per lot, including all sign surfaces, shall not exceed 250 square feet, exclusive of off-premise (billboards) signs.
3. No sign shall extend in height above the parapet wall of any principal building, except that one (1) free standing sign shall be allowed not exceeding twenty-five (25) feet in height above the average grade.
4. No sign shall be mounted on a structure on or above the roof line.
5. One temporary sign not to exceed one hundred thirty (130) square feet with no more than two (2) surfaces, may be displayed on a parcel during the time that the parcel is for sale, available for lease, or under construction.

## SECTION 2006. OFF-PREMISE SIGNS (BILLBOARDS)

1. Off-premise signs (billboards) may be permitted as a conditional use in any industrial district and the commercial district, providing the sign has no more than two (2) surfaces and the total square footage of the sign surface area is not more than six hundred (600) square feet for signs located along principal arterial streets. On other streets, the total square footage of sign area shall not be more than four hundred (400) square feet.
2. No off-premise sign (billboard) shall be located within five hundred (500) feet of parks, historical sites, public picnic or rest areas, or within two hundred (200) feet of a church or school property.
3. No off-premise sign (billboard) shall be located closer than thirteen hundred (1300) feet horizontal distance from any other off-premise sign measured in any direction. Off-premise signs shall not exceed thirty (30) feet above the average ground level at the base of the sign.

## SECTION 2007. NONCONFORMING SIGNS

A legal nonconforming sign is a sign legally erected under the official controls in existence at the time it was erected and that would not be permitted under the official controls as written now. Legal nonconforming signs may be displayed subject to the following restrictions and Minnesota Statute Section 394.36, or successor statutes:

1. The sign is not relocated or replaced.
2. The structure or size of the sign is not altered in any way except toward compliance with this Ordinance. This does not refer to change of copy or normal maintenance.

## **ARTICLE 21 EXPLORATION AND EXCAVATION OF MINERAL MATERIAL**

These regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapter 103 A-I and the Planning and Zoning enabling legislation in Minnesota Statutes Chapter 394, or successor statutes.

### **SECTION 2101. PURPOSE**

1. This Ordinance is adopted for the purposes of:
  - A. Providing for the economic availability and removal of sand, gravel, rock, soil, and other materials vital to the continued growth of Murray County.
  - B. Establishing regulations, safeguards, and controls in the unincorporated areas of the County regarding noise, dust, traffic, drainage, groundwater quality, and other factors which will minimize the environmental and aesthetic impacts on mined or adjacent property.
  - C. Reducing the potential for pollution caused by wind, soil erosion, and sedimentation.
  - D. Establishing locations, orderly approval process, and operating conditions under which mining operations will be allowed in the unincorporated areas of the County and to establish conditions which ensure the restoration of mined areas consistent with the existing and planned land use patterns.
  - E. Ensuring compliance with the regulations established in this Ordinance on those mining operations presently operating in Murray County.

### **SECTION 2102. SCOPE AND APPLICABILITY**

This Ordinance applies to all lands within the unincorporated area of Murray County. It is not intended by this Ordinance to repeal, amend, or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by or in conflict with this Ordinance or with private restrictions placed upon property by deed, covenant, or other private agreement or with restrictive covenants governing the land. Where this Ordinance imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of this Ordinance shall control. In the event of conflicting provisions in the text of this Ordinance, or any other County Ordinance, the most restrictive shall apply.

### **SECTION 2103. GENERAL PROVISIONS**

1. Mining operations operating with a valid Conditional Use Permit issued by Murray County prior to the adoption of this Ordinance which remain in compliance with the terms and conditions of the Conditional Use Permit shall be permitted to continue but shall not be permitted to expand, either in size or use, beyond the limits set forth in the approved and recorded Conditional Use Permit without first obtaining a new Interim Use Permit.
2. No person, firm, or corporation shall hereafter engage in the mining and processing of sand, gravel, granite, or other minerals on any land within Murray County without first obtaining an Interim Use Permit, as regulated in Article 30 of this Ordinance.

3. The Interim Use Permit issued by Murray County shall be valid for a maximum of five (5) years. If the operator seeks to continue beyond expiration, an application for an extension of the permit must be applied for at least thirty (30) calendar days prior to the expiration of the current permit. The zoning administrator shall provide notice of expiration at least one-hundred-twenty (120) calendar days prior to the expiration date of the Conditional or Interim Use Permit. A report must be submitted to the Zoning Administrator at the time of the extension request specifying that they will be operating under the existing Conditional or Interim Use Permit and will not be enlarging or expanding the operation.
4. The owner/operator of a mining operation shall be responsible for extraordinary maintenance and restoration of all county/township roads leading to the mining operation that may be damaged due to activities involving the mining operation unless the owner/operator can prove that the mining operation was not the cause of the roadway damage. All maintenance and restoration of roads shall be done with the approval of the road authority and to the road authority's satisfaction.
5. In order for Murray County to grant an Interim Use Permit for a new mining operation or the expansion or change in use of an existing operation, whether under permit or not, all of the following criteria must be met:
  - A. The mining operation must be located in the districts in which they are permitted.
  - B. All other standards for approval of an Interim Use Permit as contained in the Zoning Ordinance are met.
  - C. The operation is consistent with the Murray County Comprehensive Plan and is in compliance with all provisions of this Ordinance.

#### SECTION 2104. APPLICATION

1. The application for an Interim Use Permit for a mining operation must be filed with the Zoning Administrator. Application for extension of a permit must be made thirty (30) calendar days prior to the termination of the previous permit. The application must be made in the name(s) of the operator of the mine and owner of the land to be mined. The application shall contain the following:
  - A. The name and address of the operator and owner of the land.
  - B. An accurate legal description of the property where the mining shall occur.
  - C. A map of the property where the mining is to occur that clearly indicates the property lines and the limits of the proposed excavation. Topographic data, including contours at ten (10)-foot vertical intervals. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown.
  - D. A narrative outlining the type of material to be excavated, mode of operation, estimated amount of material to be removed, plans for blasting, and other pertinent information to explain the request in detail.
  - E. A fee as established by resolution of the County Board.

- F. A general location map showing the proposed mining site in relation to any city within two (2) miles.
  - G. A map showing access routes between the property and the nearest arterial road.
  - H. Location of roads or streets, show name, right-of-way width and traveled portion width, railroads, and trails.
  - I. Easements: show widths and identify utility or other purposes.
  - J. Natural land features: show locations of watercourses and drainage ways, flood of record, wetlands, sinks, basins, and wooded areas.
  - K. Man-made features: show buildings and other structures, dams, dikes, and impoundments of water.
  - L. Processing areas shall be identified, and boundaries shown.
  - M. Access road to processing and mining areas shown.
  - N. Proposed location of principal service or processing buildings or enclosures shall be shown, as well as location of settling basins and process water ponds.
  - O. Reclamation plan in conformance with Section 2106 of this Article.
  - P. The operator must indicate if blasting is proposed as part of the mining operation and frequency of blasting.
  - Q. Any other information or reports the Zoning Administrator or Planning Commission deems necessary for purposes of evaluating environmental or aesthetic impacts.
2. Environmental Assessment Worksheets, Environmental Impact Statements, and Other Permits.
- A. The County will require a copy of all other State or Federal Permits as they apply to the project.
  - B. Abandoned wells must be sealed in accordance with State and County requirements.

#### SECTION 2105. OPERATING CONDITIONS

1. Operating Conditions. The following operating conditions and standards must be met for all mining operations.
- A. Setback. No mining, stockpiling or land disturbance shall take place within:
    - 1) Thirty (30) feet of adjoining property lines, except in cases where adjacent property owners have a written, signed, notarized agreement to mine up to the property line with a copy submitted to the Environmental Services Office.
    - 2) 300 feet to the boundary of an adjoining property residentially zoned or contiguous property subdivided into residential lots.
    - 3) Thirty (30) feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be conducted within such limits as long as a four to one (4:1) slope is maintained.
    - 4) Fifty (50) feet from the berm of any public or private ditch system.

- 5) If two (2) or more mining operations are contiguous to one another, the common boundary may be mined if the County Board approves the respective restoration plans.
  - 6) Fifty (50) feet from the ordinary high-water level of any public water provided erosion control measures are in place.
- B. Noise. All equipment and other sources of noise must operate so as to be in accordance with federal and state noise standards.
  - C. Site Clearance. All stumps and other debris resulting from the excavation or related activities should be disposed of by approved methods.
  - D. Appearance/Condition. The owner/operator must maintain buildings and plants in a neat condition. Weeds and other unsightly or noxious vegetation shall be controlled as necessary to preserve the appearance of the landscaped area.
  - E. Waste Disposal. Any waste generated from the mining operation, including sewage, hazardous waste, or waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, and county requirements.
  - F. Added Provisions. The operator must comply with such other requirements that Murray County, from time to time, may find necessary to adopt for protection of the health, safety, and general welfare of its citizens.
  - G. Processing. Any mining operation in which processing is proposed must meet the following performance standards:
    - 1) The application must include the nature of the processing and equipment, location of the plant, source of water, disposal of water, and reuse of water.
    - 2) Operators who wish to have processing equipment shall meet the following criteria:
      - a. All federal and state air, water, and noise quality standards must be met.
      - b. Setback requirements as set forth in this Ordinance must be met.
    - 3) A temporary processing plant in conjunction with a specific road project, located in close proximity to the subject road, will be allowed subject to the following conditions:
      - a. All federal and state air, water, and noise quality standards must be met.
      - b. An Interim use permit must be obtained.
      - c. The processing equipment must be located so as to minimize the effect on surrounding property owners.
      - d. Site selection shall not have a negative effect of the public health, safety, and general welfare.
      - e. No materials, outside of the designated right-of-way, may be excavated or removed from the site without an Interim use permit for mining.

- H. Recycling. The crushing/processing or storage of used aggregate, concrete and asphalt will be permitted subject to the following conditions:
  - 1) The processing equipment must be located so as to minimize the effect on surrounding property owners.
  - 2) Site selection shall not have a negative effect on the public health, safety and general welfare.
  - 3) All federal and state air, water, and noise quality standards must be met.
- I. Temporary Asphalt and Concrete Plants. An Interim Use Permit shall be required for all temporary asphalt and concrete plants. Temporary asphalt and concrete plants may be allowed if the following conditions are met:
  - 1) All setbacks as set forth in this Ordinance must be met.
  - 2) All federal and state air, water, and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
  - 3) The owner/operator must provide a plan to prevent surface and groundwater contamination.
  - 4) Equipment must be located in such a manner so as to have the least environmental and aesthetic impact.
  - 5) Site selection shall not have a negative effect on the public health, safety, and general welfare.
  - 6) No materials may be excavated or removed from the site without an interim use permit for mining.
- J. Fuel Storage. All on-site storage of fuel must meet federal and state standards.

#### SECTION 2106. RECLAMATION

- 1. Reclamation. A reclamation plan will be required showing final slope angles, terracing and other structural stabilization measures. Describe seeding plan, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.
- 2. Final Restoration/Removal of Structures. Within a period of twelve (12) months after the termination of a mining operation, or within twelve (12) months after abandonment of such operation for a period of twelve (12) months, or within twelve (12) months after expiration of a conditional or interim use permit, all buildings and other structures not otherwise allowed under the Zoning Ordinance must be removed from the property and the property restored in conformance with the reclamation plan.



## **ARTICLE 22 ENVIRONMENTAL REVIEW PROGRAM**

### **SECTION 2201. ADOPTION BY REFERENCE OF STATE REGULATIONS**

The provisions of the rules for the Environmental Review Program, MN Rules Chapter 4410 or successor rules, are hereby adopted, together with the other provisions of this Ordinance, as the environmental review operating procedures Murray County will follow in implementing the provisions of Minnesota Statutes Chapter 116 D, or successor statutes relating to the Environmental Review Program and any rules adopted thereunder by the Minnesota Environmental Quality Board. All terms used in this Ordinance shall have the same meaning as the terms used in Chapter 116D and the rules adopted thereunder.

### **SECTION 2202. COST OF PREPARATION AND REVIEW**

1. Information to be provided. The applicant for a Zoning Certificate for any action for which environmental documents are required either by state law or rules by the Board shall supply in the manner prescribed by the Zoning Administrator all unprivileged data or information reasonably requested by the County that the applicant has in his possession or to which he has reasonable access.
2. Environmental Assessment Worksheets. The applicant for a Zoning Certificate for any action for which an environmental assessment worksheet (EAW) is required either by state law or rules or by the Board shall pay all costs of preparation and review of the EAW, and upon the request of and in the manner prescribed by the Zoning Administrator shall prepare a draft EAW and supply all information necessary to complete that document.
3. Environmental Impact Statement. The County and the applicant for a Zoning Certificate for any action for which an environmental impact statement (EIS) is required shall comply with the provisions of the Rules Governing Assessment of Costs for Environmental Impact Statements, MN Rules Chapter 4410.6000-6500 or successor rules, unless the applicant and the Board provide otherwise by a written agreement.
4. Payment of Costs. No Zoning Certificate for an action for which an EAW or an EIS is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied, and until the environmental review process has been completed as provided in this Ordinance and the rules adopted by reference by this Ordinance, and pursuant to any written agreement entered into by the applicant for the Zoning Certificate or Certificates and the Board under the provisions of Section 2202.5 of this Ordinance.
5. Agreements Concerning Cost of Preparation and Review. The applicants for a Zoning Certificate for any action for which an EAW or EIS is required and the Board may, in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS as provided in MN Rules Chapter 4410.6410, or successor rules.

## SECTION 2203. ADMINISTRATION

1. The Zoning Administrator shall be the person responsible for the administration of the Environmental Review Program, this Ordinance, and the rules adopted by reference by this Ordinance.
2. The Zoning Administrator shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under MN Rules Chapter 4410, or successor rules. The Zoning Administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of this Ordinance and shall notify the Planning Commission and the Board of these proposed actions.
3. All EAW's and EIS's shall be prepared under the supervision of the Zoning Administrator and the Planning Commission and reviewed and approved by the Board.
4. When reviewing an EAW or EIS, the Zoning Administrator and the Planning Commission may suggest design alterations which would lessen the environmental impact of the action. The Board may require these design alterations to be made a condition for issuing the Zoning Certificate when it finds that the design alterations are necessary to lessen the environmental impact of the action.
5. After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the Board whether or not it should require the preparation of an EIS. The Board shall require an EIS when it finds under MN Rules Chapter 4410 or successor rules, that an action is major and has potential for significant environmental effects.

## SECTION 2204. OPTIONAL ENVIRONMENTAL WORKSHEET

The Board may, upon recommendation by the Zoning Administrator, require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required:

1. Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?
2. Is the action likely to have disruptive effects such as generating traffic and noise?
3. Are there public questions or controversy concerning the environment?

## SECTION 2205. ENFORCEMENT AND PENALTY

1. No Zoning Certificate shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this Ordinance are completed.
2. No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this Ordinance are fully complied with.

## **ARTICLE 23. WINERIES**

### **SECTION 2301. PURPOSE.**

The purpose of this Article is to provide for the orderly development of wineries, within the “A” Agricultural, “SP” Special Protection, and “S” Shoreland Overlay Districts, to encourage the economic development of the local agricultural industry, provide for the sampling and sales of value-added products, to protect the agricultural character and long-term agricultural production of agricultural lands, and to ensure compatibility with adjacent land uses. All existing and future wineries in Murray County shall comply with Title 27 of the United States Code of Federal Regulations (CFR) and the Minnesota Statutes 340A.315, as amended from time to time, and this Ordinance.

### **SECTION 2302. REGULATORY AGENCIES**

Regulatory Agencies. Food safety is an important public health issue. Several government agencies are involved in ensuring the safety of production, processing, distribution and sale of food products. All Farm Wineries must adhere to the regulations of the Bureau of Alcohol, Tobacco Tax and Trade (TTB), Federal Food and Drug Administration (FDA), Environmental Protection Agency (EPA), Minnesota Department of Agriculture (MDA), and Occupational Safety (OSHA).

### **SECTION 2303. PERMIT REQUIREMENTS.**

1. Permitted Small Farm Wineries. For a small farm winery to constitute a permitted use under this ordinance, it must meet all of the following requirements:
  - A. The parcel on which the winery and vineyard is proposed is ten (10) acres in area or greater.
  - B. Fifty percent (50%) of raw materials to be processed are raised or grown on the site.
  - C. The total processing and/or sales facility is 2400 square feet or less in total gross floor area.
  - D. Any Small Farm Winery open to the general public, must operate within all of the following limitations:
    - 1) Open only during the hours between 11:00 a.m. and 6:00 p.m.
    - 2) Open only a maximum of three (3) days per week
    - 3) Open only a maximum of nine (9) continuous months per calendar year.
  - E. The number of Facility Rental Events shall be limited to nine (9) events per calendar year and each event shall only occur on a single day. Special events shall not extend beyond the hour of 10:00 pm.
  - F. All Facility Rental Events shall be limited to a capacity of sixty (60) persons at one (1) time, including winery staff/employees.
  - G. No commercial kitchen shall be allowed on the site and no food preparation shall be allowed on site.
  - H. The gross floor area designated for wine tasting and retail sales shall not exceed forty percent (40%) of the total gross floor area of the principal building used for processing of wine products, or 800 square feet, whichever is less.

2. Conditionally Permitted Farm Wineries. Any Large Farm Winery, or a Small Farm Winery that does not meet the requirements of Section 2303.1 of this Ordinance, may be allowed as a Conditionally Permitted Farm Winery that must meet all of the following requirements:
  - A. The parcel on which the winery and vineyard is proposed is twenty (20) acres in area or greater.
  - B. The total processing and/or sales facility is more than 2,400 square feet in gross floor area.
  - C. All Facility Rental Events shall be limited to a capacity of 200 persons at one time, including winery staff/employees.
  - D. The gross floor area designated for wine tasting and retail sales shall not exceed forty percent (40%) of the total gross floor area of the principal building used for processing of wine products, or 1,000 square feet, whichever is less.
  - E. The County may impose, in addition to the standards and requirements set forth in this Section, additional conditions which the Planning Commission or the Board consider necessary to protect the public health, safety, and general welfare of the public.

#### SECTION 2304. APPLICATION REQUIREMENTS FOR SMALL AND LARGE WINERIES.

1. The following must be included on an application for a Permitted or Conditionally Permitted Farm Winery, to be filed with the Zoning Administrator, in accordance with the provisions of Article 35, or Article 29 of this Ordinance:
  - A. The name and address of the operator and owner of the land.
  - B. An accurate legal description of the property where the winery shall be located.
  - C. A site layout of the property indicating the location of all property lines, structures, parking area, vineyard, Subsurface Sewage Treatment System (s), etc. The layout shall include distances and be drawn to scale.
  - D. Hours of operation.
  - E. Estimated number of Facility Rental Events per year including a written description of the planned events, frequency and estimated number of guests.
  - F. Existing and proposed structures with maximum capacity of each building where customers have access.

#### SECTION 2305. REQUIRED SETBACKS FOR ALL PERMITTED AND CONDITIONALLY PERMITTED FARM WINERY STRUCTURES.

1. All Winery Structures.
  - A. Minimum of fifty (50) feet from side and rear lot lines.
  - B. Minimum of one hundred (100) feet from public road right-of-way.
  - C. Minimum of 150 feet from the ordinary high-water level of any lake, stream, river or wetland (Type 3-8).
2. Roadside stands must follow the setbacks and provisions of Section 1704.1 of this Ordinance.
3. Subsurface Sewage Treatment System (SSTS).

4. All buildings used in conjunction with the winery that generates or discharges domestic or business waste and greywater, must comply with the provisions of Article 25 of this Ordinance.
5. Signs shall meet the requirements of Article 20 of this Ordinance.

SECTION 2306. STANDARDS FOR ALL PERMITTED AND CONDITIONALLY PERMITTED WINERIES, AND RETAIL WINERY OPERATIONS.

1. The winery, vineyard, sales facilities, and Retail Winery Operations must be operated by the owner of the parcel on which they are located.
2. On-site Subsurface Sewage Treatment System (SSTS) shall be designed in compliance with Article 25 of this Ordinance and sized to accommodate employee, tasting room, and commercial sewage flows. Portable toilets may be approved for temporary use during Facility Rental Events.
3. All solid waste must be stored in a manner that prevents the propagation, harborage, or attraction of flies, rodents, vector, or other nuisance conditions and must be removed at least once every seven (7) days by a licensed Solid Waste Hauler. Burning of solid waste is strictly prohibited.
4. Plans must be submitted for how winery production waste will be disposed of or recycled.
5. Adequate parking for employees and customers shall be provided on site and shall meet the parking standards of Article 17, of this Ordinance. Parking area must be located a minimum of thirty (30) feet from property lines and public road right-of-way.
6. Noise, fumes, dust, odors, vibration or light generated as a result of the winery processing or sales will, at the property line, be below the volume, frequency, or intensity such that they do not unreasonably interfere with the enjoyment of life, quiet, comfort or outdoor recreation of an individual of ordinary sensitivity and habits.
7. Outdoor storage and display areas may be allowed as an accessory use to the winery/vineyard provided they meet the structural setback for the applicable zoning district and the performance standards contained in Article 17 of this Ordinance.
8. All buildings used in conjunction with the winery shall meet all the accessibility requirements imposed by any applicable State or Federal Law.
9. The grounds and all structures shall be maintained in a clean and safe manner.
10. Farm wineries are allowed to sell glassware, wine literature and accessories, prepackaged food items properly labeled in accordance with the Minnesota Department of Agriculture (MDA), and other wine related food items. Sales of non-wine merchandise shall be subordinate to the wine sales.
11. Farm wineries may sell their products via the Internet as permitted in Minnesota Statutes, Section 340A.417, or successor statutes.
12. The Vintner shall maintain a log of the events occurring at the winery including dates, group identity, times and number of guests.

13. Wine Tastings may be held at the winery as allowed in Minnesota Statutes, Section 340A.510, or successor statutes. The primary focus of the tasting facilities shall be the marketing and sale of the wine and grape or fruit products produced, vented, cellared or bottled at the winery. Snack foods that are consumed during wine tasting are allowed.
14. The Farm Winery owner is responsible for supervising and controlling the activities of their customers within the establishment. The Farm Winery Owner shall ensure that no disorderly behavior occurs in this area, that drinks are not taken out of the designated area, and that there are not more customers occupying the establishment than what is allowed.

## **ARTICLE 24. ANIMAL FEEDLOTS**

### **SECTION 2401. INTENT.**

An efficient and profitable livestock industry is an economic benefit to Murray County and to the State of Minnesota. It provides a value-added opportunity to our crop based agriculture and creates service industries, which provide employment and further economic activity. An efficient industry also produces high quality food and fiber for consumers at reasonable prices. The wastes produced in livestock production have the potential, when improperly stored, transported or disposed, to contribute to air, surface water, and groundwater pollution. When properly utilized such wastes contribute to soil fertility and structure and enhance efficient crop production. The following ordinance has been promulgated to reduce risk of pollution of natural resources from livestock and poultry waste. Controls address production sites, storage and land application. These rules comply with the policy and purpose of the State of Minnesota regarding control of pollution as set forth in Minnesota Statutes Chapters 115 and 116, or successor statutes. The goal of this Ordinance is to recognize economic and environmental needs so as to optimize the general welfare of the citizens of Murray County. All existing and future feedlots in Murray County shall comply with the minimum standards set forth within the MPCA Chapter 7020 rules as amended from time to time, and this Ordinance.

### **SECTION 2402. FEEDLOT REGISTRATION AND PERMIT REQUIREMENTS.**

1. The owner of a proposed or existing animal feedlot for greater than ten (10) animal units shall make an application to Murray County or the Minnesota Pollution Control Agency for a permit when any of the following conditions exist:
  - A. A new feedlot is proposed where a feedlot did not previously exist.
  - B. A change in operation of an existing animal feedlot is proposed.
  - C. A change of ownership.
  - D. An existing feedlot is to be restocked after being abandoned for five (5) or more years.
  - E. An inspection by Minnesota Pollution Control Agency (MPCA) staff or County Feedlot Officer reveals that the feedlot is creating a potential pollution hazard.
  - F. A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules and regulations.
2. Permitted Feedlots. Those feedlots, which do not have a potential pollution hazard and meet the minimum requirements of this Ordinance, shall be registered and obtain any other permits required by the County and/or MPCA.

3. Animal Feedlot Pollution Control Requirements.
  - A. In general. No animal feedlot or manure storage area shall be constructed, located, or operated so as to create or maintain a potential pollution hazard.
  - B. Vehicles, spreaders. All vehicles used to transport animal manure on county, state, and interstate highways or through municipalities shall be leak-proof. Manure spreaders with end gates shall be in compliance with this provision provided the end gate works effectively to restrict leakage and the manure spreader is leak-proof. This shall not apply to animal manure being hauled to fields adjacent to feedlot operations or fields divided by roadways provided the animal manure is for use as domestic fertilizer.
  - C. Manure storage. Animal manure, when utilized as domestic fertilizer, shall not be stored for longer than one (1) year and shall be applied at agronomic rates as established by the State.
  - D. Animal manure. Any animal manure not utilized as domestic fertilizer shall be treated or disposed of in accordance with applicable state rules.
  - E. Owner's duties. The owner of any animal feedlot shall be responsible for the storage, transportation, and disposal of all animal manure generated in a manner consistent with the provisions herein.
  - F. If a dead livestock building is a condition of a Conditional Use Permit (CUP), and if the structure is no larger than ten (10) feet by twelve (12) feet, then a separate Zoning Certificate will not be required.
4. Required Setbacks for New Feedlots. A new feedlot is considered any feedlot constructed or re-established after May 8, 2007, and will meet the following setback requirements set forth in this ordinance:
  - A. All new feedlots will be prohibited within one hundred (100) year floodplain areas.
  - B. Feedlots shall be located, as stipulated in Minnesota Rules 4725.4450, or successor rules; from any public or private well (this includes existing abandoned wells).
  - C. No new feedlot shall be within 1,000 feet of the ordinary high-water level of a lake or within 300 feet of the ordinary high-water level of a stream or river or within 300 feet of a Wetland (Type 3-8).
  - D. No new feedlot shall be situated within one-half (1/2) mile of a public park.
  - E. No new feedlots shall be within 300 feet of a public, county, judicial, or private drainage ditch.
  - F. All new feedlots shall meet the Shoreland Standards in Article 12, Section 1206.2B of this Ordinance.



G. Minimum Separation Distances. The Following Tables:

<u>Animal Units</u>	<u>10 to 750</u>	<u>751 to 1500</u>	<u>1501 to 3000</u>	<u>Greater than 3000</u>	
Rural Residence, Commercial and Industrial Districts	¼ mile	½ mile	¾ mile	1 mile	
<u>Animal Units</u>	<u>10 to 50</u>	<u>51 to 500</u>	<u>501 to 2000</u>	<u>201 to 5000</u>	<u>Greater than 5000</u>
Population Center	½ mile	¾ mile	1 mile	1 ½ mile	3 miles

**Population Centers Include:** Avoca, Chandler, Currie, Dovray, Fulda, Hadley, Iona, Lake Wilson, Slayton, Wirock, Lime Creek; **And developed areas around:** Lake Shetek, Sarah, Bloody, Fremont, 1<sup>st</sup> Fulda, Lime, Current, and Fox.

**\* Increase the distance by 1.5 time if open liquid manure storage is used.**

- H. Any open type liquid manure storage for hogs will not be allowed.
  - I. Setback from public right-of-way line. The minimum setback from the public right-of-way line shall be one hundred (100) feet. This applies to all new feedlot operations.
  - J. 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.
  - K. Feedlot setbacks do not apply to the applicant’s own residence or a residence on the farm where the feedlot facility is located.
5. Required Setbacks for the Expansion of Existing Feedlots. For the purpose of this Ordinance, any expansion taking place more than one eighth (1/8) mile, within the same section of land, from the existing feedlot, shall be considered a new feedlot and must meet the setback and other requirements of this Ordinance for a new feedlot.
- A. For a site to be considered an existing feedlot, the landowner bears the burden of establishing, to the satisfaction of the Murray County Environmental Services Office, that more than ten (10) animal units were maintained at the proposed site at sometime within the previous five (5) years.
  - B. Minimum Separation Distances for Existing Feedlots.
    - 1) Permitted feedlots, existing on or before May 8, 2007, plus any feedlot expansion to a total feedlot size of less than or equal to 1,500 animal units, shall be deemed conforming in their present location.
    - 2) Expansions to feedlots existing on or before May 8, 2007, to a total feedlot size of less than or equal to 1,500 animal units shall not encroach closer to a residence or population center than the existing feedlot if less than one quarter (¼) mile away.

- 3) Expansions to feedlots existing on or before May 8, 2007, over 1,500 animal units, must comply with the following setbacks:

<u>Animal Units</u>	<u>1501 to 2000</u>	<u>2001 to 5000</u>	<u>Greater than 5000</u>
Rural Residence, Commercial and Industrial Districts	½ mile	¾ mile	1 mile

<u>Animal Units</u>	<u>1501 to 2000</u>	<u>2001 to 5000</u>	<u>Greater than 5000</u>
Population Center	1 mile	1 ½ miles	3 miles

**Population Centers Include:** Avoca, Chandler, Currie, Dovray, Fulda, Hadley, Iona, Lake Wilson, Slayton, Wirock, Lime Creek; **And developed areas around:** Lake Shetek, Sarah, Bloody, Fremont, 1<sup>st</sup> Fulda, Lime, Current, and Fox.

**\* Increase the distance by 1.5 time if open liquid manure storage is used.**

- C. Right-of-way. A minimum of fifty (50) feet setback from the right-of-way.
- D. Property Line. A minimum of thirty (30) feet from the property line.
- E. No new feedlot structures for an existing feedlot shall encroach closer to a public, county, judicial, or private drainage ditch or a Wetland (Type 3-8).
- F. All existing feedlots will comply with the feedlot standards in Article 12, Section 1206.2B of this Ordinance.
- G. 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.
- H. Feedlot setbacks do not apply to the applicant’s own residence or a residence on the farm where the feedlot facility is located.

**SECTION 2403. CONDITIONAL USE PERMITS**

**1. Required when:**

- A. Any animal feedlot constructing a lagoon system or earthen storage basin for the storage or treatment of animal waste.
- B. Any new feedlot which is proposed within one eighth (1/8) mile of an adjoining property line.
- C. Any new feedlot with 300 animal units or more animal units.
- D. Any covered concrete pit.
- E. Any expansion to a feedlot that contains, or will contain after the expansion, 1,000 animal units or more.

2. Environmental Reviews, pursuant to Minnesota Rules, Chapter 4410, or successor rules.
  - A. The MPCA is the Responsible Government Unit for mandatory environmental reviews pursuant to the Environmental Quality Board (EQB), Minnesota Rules, Chapter 4410, or successor rules. The EQB rules are the final source of information which activate the environmental review of feedlots.
  - B. Discretionary Environmental Review. Any agency of government with an approval interest in the project has the authority pursuant to the EQB rules to order discretionary environmental review for any project.
3. Standards for Conditional Use Permits.
  - A. In addition to the standards and requirements set forth in this ordinance, the County may impose any additional conditions which the Planning Commission or the Board consider necessary to protect the public health, safety, and general welfare. This may include, but is not limited to, the planting of trees or shrubs to be used as a windbreak.
  - B. Conditional Use Permits shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes as regulated otherwise by this Ordinance.
  - C. All feedlots shall be operated in a manner consistent with all applicable Federal, State and Local Rules and Regulations.
  - D. All feedlots are required to provide a Manure Management Plan and abide by Minnesota Rules Chapter 7020, or successor rules, for manure application.
  - E. No animals are allowed in the feedlot until all permits are obtained and construction report is completed and submitted.
  - F. A Construction Report for a new feedlot must be submitted by either the operator or the Engineer prior to start up; with no expansion of the new feedlot allowed within one (1) year from the date of the Construction Report.
  - G. Dead livestock shall be rendered or composted. If composted, all State composting guidelines must be followed. If rendered, they shall be stored in a dead animal enclosure consisting of four (4) – four (4) foot high solid walls, one of which can be opened. The enclosure shall have a fully cemented floor and may or may not be roofed. The dead livestock must be placed within the enclosure until picked up by the rendering truck. Disposal by burial will not be allowed, except in emergency situations after approval by the Murray County Environmental Services Office. The dead animal enclosure must be in place before any livestock can be housed in the barn. Notwithstanding any provision in any CUP issued on or before August 7, 2012, rendering of dead livestock done in compliance with this provision shall be deemed compliant with any condition addressing rendering of dead livestock within the Conditional Use Permit.

H. Standards for Earthen Basins and Concrete Pits.

- 1) The standards for these structures shall be in compliance with MPCA requirements.
- 2) The sizing capacity of any earthen basin or concrete pit for manure storage or treatment should be in accordance with MN Statute 7020 Rules, or successor rules, and have a minimum storage capacity of nine (9) months plus a wastewater factor.
- 3) Temporary manure storage area such as daily scrape areas are not considered earthen basins or concrete pits and shall be operated in a non-polluting manner.
- 4) An inspection pipe for water sampling shall be provided on the perimeter basin or pit tile line, which may be used to take water samples. The perimeter tile line must be brought to the surface one hundred (100) feet before water from the tile line can enter a private tile intake, public tile intake or public water.
- 5) All animal wastes from the liquid pits will be injected or incorporated into the soil within forty-eight (48) hours of being land applied and shall be incorporated immediately within 1000 feet of a residence. Surface application may be allowed in emergency situations after approval by the Murray County Environmental Services Office.
- 6) The permit holder shall install a warning sign at all entrances to the basin or pit. These signs shall warn the reader of the dangers of entering the basin or pit.
- 7) Details of the concrete pit designs shall be submitted to the Murray County Environmental Services Office prior to construction.
- 8) The Murray County Environmental Services Office shall be contacted for an on-site inspection during the construction of the pit.
- 9) Normal maintenance of roads must be provided during pit construction. When construction is completed, the roads must be restored to the preconstruction condition.
- 10) If the operation is abandoned, the permit holder shall be responsible for the cleanup of the manure in the facilities, within one (1) year of abandonment.
- 11) Any type of open liquid manure storage for hogs will not be allowed.

SECTION 2404. VARIANCE

1. Any feedlot, other than ones which are prohibited, may request a variance from the rules of this Ordinance where the rules may not apply or create a unique hardship due to conditions not created by the feedlot operator or owner and meet the State definition of a “practical difficulty”.

## ARTICLE 25 SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS)

### SECTION 2501. PURPOSE, INTENT, AUTHORITY, AND EFFECTIVE DATE

1. Purpose. The purpose of this section is to establish minimum requirements for regulation of SSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and 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.
2. Intent. It is intended by the County that this Article will promote the following:
  - A. The protection of lakes, rivers and streams, wetlands, and groundwater in Murray County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
  - B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting 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 of natural resources; 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, holding tanks, 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.
3. Authority. This Article is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Sections 145A.01 through 145A.08; Minnesota Statutes, Section 375.51; or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082, or successor rules.

### SECTION 2502. GENERAL PROVISIONS

1. Scope. This Article 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 sited, designed, installed, operated, and maintained in accordance with the provisions of this Article or by a system that has been permitted by the MPCA.
2. Jurisdiction. The jurisdiction of this Article 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 Article and has been reviewed by the MPCA. The Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

## SECTION 2503. ADMINISTRATION

1. County Administration. The Department shall administer the SSTS program and all provisions of this Article. At appropriate times, the County shall review, revise, and update this Article as necessary. The County shall employ qualified and appropriately licensed professionals to administer and operate the SSTS program.
2. State of Minnesota. Where the owner or owners of a single SSTS or a group of SSTS under common ownership must obtain an SDS permit from the MPCA according to Minnesota Rules Chapter 7001, or successor rules, when all or part of proposed or existing soil dispersal components are within one-half (1/2) mile of each other and the combined flow from all proposed and existing SSTS is greater than 10,000 gallons per day.
3. Cities and Townships. Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Article. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Article.
4. Validity. The validity of any part of this Article 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.
5. Liability. Any liability or responsibility shall not be imposed upon the Department or MPCA or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any SSTS regulated under this Article by reason of standards, requirements, or inspections authorized hereunder.

## SECTION 2504. GENERAL REQUIREMENTS

1. Retroactive
  - A. All SSTS. Except as set forth in Section 2504.1B of this Article, all provisions of this Article shall apply to any SSTS regardless of the date it was originally permitted.
  - B. Existing SSTS Permits. Unexpired permits which were issued prior to the effective date of this Article shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership, whichever is earlier.
  - C. SSTS on Lots Created After January 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, or at-grade systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230, or site conditions described in 7081.0270, Subpart 3 through 7, or successor rules.
2. ▲ Construction Activity
  - A. No construction or repair requiring excavation of soil after October 31<sup>st</sup> or before April 15<sup>th</sup> shall be allowed in any portion of the drainfield or soil absorption system, without the permission of a Qualified Employee of the Department.

### 3. Upgrade, Repair, Replacement, and Abandonment

- A. SSTS Capacity Expansions. Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Article at the time of the expansion.
- B. ▲ Additions to Dwellings. The owner must submit a valid Certificate of Compliance and/or a obtain a valid SSTS Septic Permit prior to the issuance of a Zoning Certificate for an addition to a dwelling that increases the livable area of the dwelling, excluding decks, open porches, or garages that are either attached to the principle structure or connected to the principle structure by a covered breezeway not exceeding forty-eight (48) square feet and not containing any plumbing fixtures.
- C. ▲ 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, or successor rules, shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Article within twelve (12) months of receipt of a Notice of Noncompliance.
- D. ▲ Imminent Threat to Public Health or Safety (ITPH). An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subpart 4A, or successor rules, shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Article within three (3) months of receipt of a Notice of Noncompliance.
- E. Abandonment. Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rules, Chapter 7080.2500, or successor rules, and Section 2506.4 of this Article.

### 4. SSTS in Floodplains

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

### 5. Class V Injection Wells

- A. All owners of 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 Class V inventory information to the Environmental Protection Agency (EPA) as described in 40CFR144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

## 6. SSTS Practitioner Licensing

- A. No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700, or successor rules.
- B. ▲ Property owners exempted from SSTS licensing requirements under Minnesota Rules Chapter 7083.0700, or successor rules, must comply with the following additional provisions:
  - 1) A property owner must follow all applicable County, state, and federal requirements for permitting and construction of an SSTS.
  - 2) A property owner shall not construct an SSTS that requires a pump, or any SSTS to be located in a USDA soil texture that qualifies as a sand, in a wellhead protection area, or in a floodplain area, without the assistance of a licensed installation business or a certified installer at the site.
  - 3) The property owner shall provide a signed agreement to the Department which indemnifies and saves the County holding it harmless from all losses, damages, costs, and charges that may be incurred by the County due to failure of the permittee to conform to and comply with the provisions of this Article.
  - 4) The licensed design business or certified designer of the SSTS must be present at the site during the compliance inspection conducted by the Department.

## 7. Prohibitions

- A. **Occupancy or Use of a Building without a Compliant SSTS.** It is unlawful for any person to maintain, occupy, or use any building designed to discharge domestic waste and greywater that disposes of wastewater in a manner that does not comply with the provisions of this Article.
- B. **Sewage Discharge to Ground Surface or Surface Water.** It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Article that result 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 (NPDES) program administered by the MPCA.
- C. **Sewage Discharge to a Well or Boring.** It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, Chapter 4725.2050, or successor rules, or any other excavation in the ground that is not in compliance with this Article.
- D. **Discharge of Hazardous or Harmful Materials.** It is unlawful for any person to discharge into any treatment system regulated under this Article any hazardous or harmful material that adversely affects the treatment or dispersal performance of the system or groundwater quality.



## SECTION 2505. SSTS STANDARDS

1. Standards Adopted by Reference. The County hereby adopts by 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 Minnesota Statutes Chapter 115.55, or successor statutes.
2. Amendments to the Adopted Standards
  - A. Determination of Hydraulic Loading Rate and SSTS Sizing
    - 1) Tables IX and IXa from Minnesota Rules, Chapter 7080.2150, Subpart 3(E) entitled "Loading Rates for Determining Bottom Absorption Area and Absorption Ratios Using Detailed Soil Descriptions" and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Article.
    - 2) ▲ The Department will make the determination whether a backhoe pit will be required for soil verification. A backhoe pit is required for soil verification for all MSTs.
    - 3) ▲ Soil Verification shall include verifications by two (2) independent parties which may be a licensed inspection business, a certified inspector, and/or a Qualified Employee. If there is a dispute between the two (2) verifying inspectors, the disputing parties must follow the dispute resolution procedure described in Minnesota Rules, Chapter 7082.0700, Subpart 5, or successor rules.
  - B. Compliance Criteria for Existing SSTS.
    - 1) SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two (2) feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.
    - 2) ▲ SSTS built after March 31, 1996 or SSTS located in a shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under Minnesota Rules Chapter 7080.1100, Subpart 84, or successor rules, shall have a three (3) foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. When determining vertical separation distance for existing at-grade or mound systems, a variance reduction of up to five (5) inches will be allowed to account for settling of sand or soil, normal variation of separation distance measurements, and interpretation of limiting layer conditions.
    - 3) ▲ The vertical separation measurement for 1.) and 2.) above shall be made outside the area of system influence but in an area of similar soil.

C. ▲ Holding Tanks

- 1) For single family homes, the owner shall obtain a conditional use permit in accordance with provisions of Article 29 of this Ordinance.
- 2) For a use, other than a dwelling, with a design wastewater flow of less than fifty (50) gallons per day, a holding tank may be installed as a permitted use provided the system be designed so the tank can be reused as a component of a SSTS. The property owner must sign an agreement to the following conditions:
- 3) The owner agrees to install another type of system if any change of use occurs which results in a design wastewater flow which equals or exceeds fifty (50) gallons per day.
- 4) Standard Conditions that shall apply to all holding tanks:
  - a) The owner shall obtain a septic permit.
  - b) The holding tank shall be sized, installed, operated, maintained, and monitored in accordance with Minnesota Rules and this Article.
  - c) A remote reading water meter shall be installed to continuously record indoor water use.
  - d) The owner shall maintain a valid contract with a licensed maintenance business to pump liquids and solids from the holding tank and transport septage to a licensed treatment facility or land apply septage as permitted under this Article prior to overflow or any discharge.
  - e) The holding tank shall be regularly pumped on a schedule agreed upon with the Department.
  - f) The licensed maintenance business or certified maintainer shall provide a written report to the Department within thirty (30) calendar days after the maintenance work is completed.
  - g) The licensed maintenance business or certified maintainer shall certify each date the tank is pumped, the volume of the liquid waste removed, the treatment facility or the location of the land to which the waste was discharged, the water meter reading at the time of pumping, the reason for pumping, and any maintenance work or repairs conducted.
  - h) Failure to meet these requirements will result in automatic non-compliance.

- D. ▲ Sewage Tanks. Sewage tanks must be installed according to Minnesota Rules, Chapter 7080.2000, or successor rules, except that the top of sewage tanks may be buried up to the tank manufacturer's maximum designed depth for the tank.

### 3. Variances

- A. Variance Requests. A property owner may request a variance from the standards as specified in this Article pursuant to Article 32 of this Ordinance.
- B. 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.
- C. Variance Considerations.
  - 1) The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings. Variances shall only be permitted when they are in harmony with the general purposes and intent of the Murray County Comprehensive Plan and where there are practical difficulties or particular hardship in meeting the strict letter of this Article.
  - 2) The granting of the variance would be in accordance with Minnesota Rules, Chapters 7080, 7081, and 7082, or successor rules.
  - 3) Wells. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.
  - 4) 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 Article.
  - 5) Any variance granted shall automatically expire if the system is not installed within one (1) year of the granting of the variance.

### SECTION 2506. SSTS PERMITTING

- 1. Septic Permit Required. It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate septic permit from the Department.
- 2. Septic Permit. A septic permit shall be obtained by the property owner or an agent of the property owner from the Department prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Article by an appropriately certified and/or licensed business.
  - A. Activities Requiring a Septic Permit. A septic 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.
  - B. Activities Not Requiring a Septic Permit. A septic permit is not required for minor repair or replacement of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

- C. ▲ Septic Permit Required to Obtain Zoning Certificate. For any new construction, addition or alteration of an existing structure for which a SSTS permit is required, approval and issuance of a valid SSTS Septic Permit must be obtained in conjunction with the issuance of a land use permit by the Department.
- D. ▲ Conformance to Prevailing Requirements. Any activity involving an existing system that requires a Septic Permit shall require that the entire system be brought into compliance with this Article.
- E. Septic Permit Application Requirements. Septic Permit applications shall be made on forms provided by the Department and shall include the following information:
  - 1) Name, mailing address, and telephone number of the property owner.
  - 2) Property Identification Number, address, and legal description of the property.
  - 3) Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730, or successor rules.
  - 4) Design Report as described in Minnesota Rules, Chapter 7080.2430, or successor rules.
  - 5) Management Plan as described in Minnesota Rules, Chapter 7082.0600.
  - 6) Name, mailing address, telephone number, and SSTS license number of the system designer and system installer.
  - 7) Any other information requested by the Department that is pertinent to the application.
- F. Application Review and Response. The Department shall review a septic permit application and supporting documents within fifteen (15) business days of its receipt.
  - 1) Upon satisfaction that the proposed plan and design information conform to the provisions of this Article, the Department shall issue a septic permit authorizing construction of the SSTS as designed.
  - 2) In the event there is a significant change to the approved application, the designer must file an amended application to the Department detailing the changed conditions for review and approval or denial prior to initiating or continuing construction, modification, or operation. The Department shall complete the review of the amended application within fifteen (15) business days of its receipt.
  - 3) If the permit application is incomplete or does not meet the requirements of this Article, the Department shall deny the application. A written notice of denial shall be provided to the applicant, which must state the reason for the denial.
- G. Appeal. The applicant may appeal the Department's decision to deny the Septic Permit pursuant to Article 32 of this Ordinance.
- H. Permit Expiration. The Septic Permit is valid for a period of one (1) year from its date of issue. Satisfactory completion of construction shall be determined following a final inspection. After the final inspection, a Certificate of Compliance will be issued to the property owner by the Department, that the construction or installation of the system was completed in reasonable conformance with the approved design.
- I. ▲ Extensions and Renewals. The Department may grant an extension of the Septic Permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than six (6) months.

- J. Transferability. A Septic Permit shall not be transferred to a new owner. The new owner must apply for a new Septic Permit in accordance with this Article.
  - K. Suspension or Revocation. The Department may suspend or revoke a Septic Permit issued under this Article for any false statements, misrepresentations of facts on which the Septic 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 Septic Permit is obtained.
  - L. Posting. The Septic Permit shall be posted on the property such that the septic permit is visible and available for inspection until construction is completed and certified.
3. Operating Permit
- A. SSTS Requiring an Operating Permit. An Operating Permit shall be required of all owners of MSTs, or Type IV or V, or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a Type IV or V, holding tank or MSTs until the Department issues a Certificate of Compliance certifying that the MSTs or holding tank was installed in substantial conformance with the approved design plans, and a valid Operating Permit is issued to the owner.
  - B. Operating Permit Application Requirements. Application for an Operating Permit shall be made on a form provided by the Department, which shall include the following:
    - 1) Name, mailing address, and telephone number of the property owner
    - 2) Property Identification number, address and legal description of the property
    - 3) Septic Permit number and date of issue
    - 4) Design Drawings, Operation and Maintenance Manual, Management Plan, and Maintenance and Servicing Contract
    - 5) Final as-built drawings of the treatment system
    - 6) Owners of holding tanks must submit to the Department a copy of a valid executed monitoring and disposal contract with 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, Subpart 3G, or successor rules. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, Chapter 115.56, subdivision 2, paragraph (b), clause (3), or successor rules. The owner must hold a valid contract with a licensed maintenance business at all times until such time the holding tank is abandoned, or the property sold.
    - 7) Any other information requested by the Department that is pertinent to the application.

- C. Department Review and Approval. The Department shall review the design drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness within fifteen (15) business days of their receipt. If any deficiencies are identified, the operating permit shall be denied. A written notice of the denial shall be sent to the applicant stating all deficiencies that need to be corrected to the satisfaction of the Department prior to the issuance of an operating permit. If the submitted documents fulfill the requirements, the Department shall issue an operating permit within ten (10) business days of receipt of the permit application.
- D. Operating Permit Terms and Conditions. The Operating Permit shall include the following:
  - 1) System operating requirements
  - 2) System monitoring requirements
  - 3) System maintenance requirements including maintenance schedule
  - 4) System Compliance limits and boundaries
  - 5) Reporting schedule
  - 6) Department notification requirements for non-compliant conditions
  - 7) Valid contract between the owner and a licensed maintenance business
  - 8) Disclosure of the location and condition of the additional soil treatment and dispersal system site.
  - 9) Descriptions of acceptable and prohibited discharges.
- E. Operating Permit Expiration and Renewal
  - 1) Operating Permits shall be valid for the specific term stated on the permit as determined by the Department. An operating permit shall be renewed in conformance with the application requirements as outlined in this Article.
- F. Amendments to Existing Operating Permits not allowed. The Department may not amend an existing permit to reflect changes in this Article until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.
- G. Operating Permit Transfers. The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Section 2506.3 of this Article. 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 or safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspection business.

H. Operating Permit Suspension or Revocation. The Department may suspend or revoke any operating permit issued under this Article for any false statements or misrepresentations of facts on which the Operating Permit was issued. Notice of suspension or revocation and the reasons for this action taken shall be conveyed in writing to the owner. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Section 2506.4 of this Article. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

I. Operating Permit Compliance Monitoring

- 1) Performance monitoring of a SSTS shall be performed by a licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
- 2) A monitoring report shall be prepared and certified by the 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:
  - a) Owner name, mailing address, and telephone number
  - b) Property address and legal description
  - c) Operating Permit and Septic Permit number
  - d) Average daily flow since last compliance monitoring report
  - e) Description of type of maintenance or repair, and date performed
  - f) Description of samples taken (if required), analytical laboratory used, and results of analyses
  - g) Problems noted with the system and actions proposed or taken to correct them
  - h) A certified statement signed by a licensed service provider who performed the work on the system

4. Abandonment Certification

A. 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, in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.

B. Abandonment Requirements

- 1) Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Article shall be prohibited.
- 2) Continued use of an existing sewage tank where the tank is to become an integral part of a replacement system or sewage treatment system requires certification of the tank by a licensed inspection business that the tank is watertight and in compliance with all applicable SSTS tank standards.
- 3) An owner of a SSTS must retain a licensed business to abandon all components of the treatment system whenever the use of a SSTS or any system component is discontinued. System abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500, or successor rules. No prior notification to the Department of an owner's intent to abandon a system is necessary.
- 4) A report of abandonment certified by the licensed business shall be submitted to the Department within thirty (30) calendar days of system abandonment. The report shall include:
  - a) Owner's name, mailing address, and telephone number
  - b) Property address
  - c) System septic permit and operating permit numbers
  - d) The reason(s) for abandonment
  - e) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.
  - f) A certified statement from a licensed business that the abandonment was completed in accordance with Minnesota Rules, Chapter 7080.2500, or successor rules.

SECTION 2507. MANAGEMENT PLANS

1. SSTS Requiring Management Plans. Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the septic permit application for review and approval. If the SSTS is modified during construction, the management plan shall be revised and resubmitted to the Department prior to the issuance of a Certificate of Compliance.
2. Required Contents of a Management Plan. Management plans shall include the following:
  - 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
3. Requirements for Existing Systems not operated under a Management Plan. Existing SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids if needed every three (3) years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450, or successor rules.

#### SECTION 2508. COMPLIANCE MANAGEMENT

1. 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.
2. Compliance Inspection Program
  - A. Department Responsibility. It is the responsibility of the Department to perform various SSTS compliance inspections periodically to assure that the requirements of this Article are met.
  - B. General Requirements.
    - 1) SSTS compliance inspections must be conducted:
      - a) To ensure compliance with applicable requirements;
      - b) ▲ To ensure system compliance before issuance of a zoning certificate for an addition to a dwelling that increases the livable area, excluding decks, open porches, or garages that are either attached to the principle structure or connected to the principle structure by a covered breezeway not exceeding forty-eight (48) square feet and not containing any plumbing fixtures;
      - c) 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, or successor rules, using the SSTS inspection report forms provided by MPCA.
    - 2) All compliance inspections must be performed and signed by licensed inspection business or qualified employee certified as an inspector.
    - 3) ▲ It is the responsibility of the installer to notify the Department at least two (2) business days prior to any permitted work on the SSTS. The installer shall confirm the inspection time with the Department the morning of the business day of the scheduled inspection.

- 4) ▲ The installation and construction of the SSTS shall be in accordance with the approved construction permit requirements and design. If any SSTS component is covered before being inspected by the Department, it shall be uncovered upon the direction of the Department. Proposals to alter the design shall be reviewed and approved by the Department prior to construction. An inspection shall be conducted at least once during the construction of the SSTS to see major components in place to assure that the system has been constructed per submitted and approved design.
- 5) ▲ If the installer provides proper notice as described above and the Department does not appear for an inspection within two (2) hours after the time set for an inspection, the installer may complete the installation if photographs are taken during each phase of the installation process of all major components in place and are submitted to the Department within fifteen (15) days of installation completion.
- 6) The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. The Department shall notify the owner of the Department's intent to inspect the SSTS in advance of the intended inspection.
- 7) 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.
- 8) As-Built drawings shall be submitted to the Department within fifteen (15) business days of completion of the work on the SSTS.
- 9) Neither the issuance of permits, Certificates of Compliance, nor 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.

C. New Construction or Replacement

- 1) ▲ Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081, or successor rules. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
- 2) Certificates of Compliance for new SSTS construction or SSTS replacement, shall remain valid for five (5) years, and shall be issued by the Department certifying that the SSTS system was installed in accordance with the applicable requirements as specified in the approved septic design plans.
- 3) 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.

- 4) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) 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) days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.

#### D. Existing Systems

- 1) Compliance inspections shall be required when any of the following conditions occur:
  - a) When a septic permit is required to repair, modify, or upgrade an existing system;
  - b) ▲ Any time there is an expansion of use of the building being served by an existing SSTS which increases the livable area, excluding decks, open porches, or garages that are either attached to the principle structure or connected to the principle structure by a covered breezeway not exceeding forty-eight (48) square feet and not containing any plumbing fixtures;
  - c) Any time there is a change in use of a building or property being served by an existing SSTS which may impact the performance of the system;
  - d) At any time as required by this Article or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction;
  - e) ▲ Any time an operating permit is renewed.
  - f) ▲ Any time there is a transfer of property ownership, except for the exempt transactions set out in Section 2509.2 of this Ordinance,
- 2) Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:
  - a) A water tightness assessment of all sewage tanks including a leakage report;
  - b) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical separation verification report. A vertical separation report shall include verifications by two (2) independent parties which may be a licensed inspection business, a certified inspector, and/or a Qualified Employee. If there is a dispute between the two (2) verifying inspectors, the disputing parties must follow the dispute resolution procedure described in Minnesota Rules, Chapter 7082.0700, Subpart 5, or successor rules;
  - c) The presence of sewage backup, surface seepage, or surface discharge, including a hydraulic function report, which states the methods used to make the assessment.
- 3) The certificate of compliance for an existing SSTS system must include a certified statement by a licensed inspection business, indicating whether the SSTS is in compliance with all applicable requirements. If the SSTS is determined not to be in compliance, a notice of noncompliance must include a statement specifying those requirements with which the SSTS does not comply.

- 4) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) 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) days of receipt from the licensed inspection business.
- 5) 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.

#### SECTION 2509. ▲ TRANSFER OF PROPERTY

1. The seller of the property must disclose, in writing, information about the status and location of all known SSTS on the property to the buyer in accordance with Minnesota State Statute 115.55, Subdivision 6, or successor statutes.
2. In addition to the requirements established in Minnesota Statutes, all property transferred must comply with Section 2509.3 of this Ordinance unless the sale or transfer involves one (1) or more of the following circumstances:
  - A. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
  - B. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, Subdivision 1; or successor statutes.
  - C. The transfer is a foreclosure or tax forfeiture, i.e. the transaction from the former property owner to the secured entity.
  - D. The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this Ordinance. This Section applies only to the original vendor and vendee on such a contract.
  - E. Any dwelling(s) or other building(s) that are connected exclusively to a municipal wastewater treatment system.
  - F. When title to real property is held jointly by a husband and wife and one (1) spouse becomes deceased and the only change that occurs is to remove the deceased spouse's name from the title.
  - G. When title to real property is held jointly by a husband and wife and through a divorce decree one (1) of the said parties is removed from the title with the other said party retaining ownership of the property.
3. No owner or other person acting with legal authority on behalf of an owner of a tract of land upon which a structure that is required to have a SSTS is located, shall convey to another party said tract of land, unless one (1) of the following requirements are met:
  - A. A valid Certificate of Compliance is on file for all SSTS on the parcel of land to be conveyed, or
  - B. A valid Operating Permit is in place for the SSTS and all monitoring and reporting requirements have been met satisfactorily, or

- C. If the seller fails to provide a Certificate of Compliance or knows the system is failing, but not an Imminent Threat to Public Health or Safety, the buyer may sign an agreement with the Department stating that the buyer is accepting all liability to provide the Department with a Certificate of Compliance for the SSTS within twelve (12) months of the date of transfer, or
- D. If the seller fails to provide a Certificate of Compliance or knows the system is an Imminent Threat to Public Health or Safety, the buyer may sign an agreement with the Department stating that the buyer is accepting all liability to bring the SSTS into compliance within three (3) months of the date of transfer, or
- E. If the property transfer occurs between November 15 and April 15, a Stipulation Agreement shall be submitted to the Department if conditions exist that prohibit the completion of a compliance inspection stating that the buyer is agreeing to complete a compliance inspection by next June 1. If, upon inspection, the system is found to be non-compliant, the system must be brought into compliance with Article 25 of this Ordinance.

## SECTION 2510. ENFORCEMENT

### 1. Violations

- A. Cause to Issue a Notice of Violation. Any person, firm, agent, or corporation who violates any of the provisions of this Article, or who fails, neglects, or refuses to comply with the provisions of this Article, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable as defined by Minnesota Statutes. Each day that a violation exists shall constitute a separate offense.
- B. Notice of Violation. The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Article. The notice of violation shall contain:
  - 1) A statement documenting the findings of fact determined through observations, inspections, or investigations;
  - 2) A list of specific violation(s) of this Article
  - 3) A list of the specific requirements for correction or removal of the specified violation(s);
  - 4) A mandatory time schedule for correction, removal and compliance with this Article.
- C. 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 a SSTS by a licensed business or certified individual or any septage removal by a licensed maintenance business or a certified maintainer that is performed in violation of the provisions of this Article.

## SECTION 2511. RECORD KEEPING

1. Current Record. The County shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, and other records or actions relevant to each system.
2. 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.

## ARTICLE 26 ADULT USE REGULATIONS

This Article of the Murray County Zoning Ordinance shall be known as the Murray County Adult Use Regulations or “Adult Use Regulations”.

### SECTION 2601. INTENT AND PURPOSE

1. 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.
2. In the best interest of the public health, safety, and general welfare of the citizens of Murray County, certain types of activities, as set forth in this Article, 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.
3. The standards in this Article reflect the prevailing community standards in the County.
4. This Article is intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity, and sex.
5. The Board 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.
6. It is further the intent of this Ordinance to:
  - A. Protect the public health, safety, 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.

## SECTION 2602. ZONING REQUIREMENTS

1. Adult uses as defined in Article 4, shall only be allowed in the Commercial District and Industrial District as interim uses.
2. No adult use shall be located within 1,000 feet of:
  - A. Any residential site in an Ag district, for the purpose of this Article, will be considered the ten (10) acres surrounding the residential home.
  - B. Any day-care facility or any residential or nonresidential program, as defined in Minnesota Statutes Section 245A.02, or successor statutes.
  - C. Any school, as defined in Minnesota Statutes Section 120A.20, or successor statutes.
  - D. Any hotel, motel, campground, or bed and breakfast.
  - E. Any public park or trails system.
  - F. Any youth establishment.
  - G. Any religious facility or cemetery.
3. No adult use shall be permitted as an accessory use.



**ARTICLE 27 RESERVED**

## ARTICLE 28 PLANNING COMMISSION/BOARD OF ADJUSTMENT

### SECTION 2801. AUTHORITY

1. Authority. The County Board hereby establishes the Murray County Planning Commission/Board of Adjustment (PC/BOA) pursuant to Minnesota Statutes Section 394.21-394.37, or successor statutes.
2. Duties.
  - A. Acting in its capacity as the Planning Commission, the PC/BOA shall advise and forward all findings and recommendations to the County Board within sixty (60) days from the date of the application, for the following:
    - 1) Assist in the preparation, development, and updates of the Murray County Comprehensive Land Use Plan;
    - 2) Assist in the preparation, development, and updates of all Murray County land use ordinances designed to promote development consistent with adopted goals and policies;
    - 3) Review applications for, conduct public hearings and make recommendations to the County Board regarding: platting, rezoning, and subdivisions of land (including preliminary and final plats), in accordance with the provisions of this Ordinance and other County Ordinances;
    - 4) Review applications for, conduct public hearings and make recommendations to the County Board regarding: conditional and interim use permits, in accordance with the provisions of this Ordinance and other County Ordinances.;
    - 5) Perform any other such duties as required or requested by the County Board to further goals and policies in furtherance of the intent of this Ordinance and other County official controls.
  - B. Acting in its capacity as the Board of Adjustment, the PC/BOA is hereby designated by the County Board to:
    - 1) Administrative Appeals. The PC/BOA shall have the exclusive authority to hear and decide administrative appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator;
    - 2) Variances. The PC/BOA shall have the exclusive power to order the issuance or denial of Variances from the terms of any official control including restrictions placed upon nonconformities;
    - 3) Interpret any management district boundary on the Official Zoning Map.
  - C. The PC/BOA shall have other such duties and authorities as are prescribed by proper ordinances of Murray County.

3. Membership.
  - A. The PC/BOA shall consist of no less than five (5) and no more than nine (9) members, including not more than one (1) member from the County Board.
    - 1) At least three (3), but not more than five (5) PC/BOA Members will serve as the BOA.
  - B. At least two (2) members shall be residents of the portion of the County outside the corporate limits of municipalities.
  - C. No elected officer or employee of Murray County shall serve as a voting member of the PC/BOA when acting in its capacity as the Board of Adjustment.
  - D. No member of the PC/BOA shall have received, during the two (2) years prior to appointment, any substantial portion of income from business operations involving the development of land within Murray County for urban and urban related purposes.
4. Appointment/Terms
  - A. The members of the PC/BOA shall be appointed by the County Board consistent with Minnesota Statute, Chapter 394, or successor statutes.
  - B. Efforts shall be made to appoint voting members that:
    - 1) Reside in each of the following county commissioner districts: One (1), Two (2), Three (3), and Five (5);
    - 2) Reside on either Lake Shetek or Lake Sarah; and
    - 3) Represent the Township Association.
  - C. Each voting member of the PC/BOA shall be appointed for a term of three (3) years with staggered terms so that no more than four (4) appointments are made in any one (1) year. Appointments shall become effective at the first PC/BOA meeting in a calendar year.
  - D. The County Board member shall be annually appointed for a one (1) year term.
  - E. Appointments shall be made by the County Board to fill any vacancy for the unexpired duration of the term. Vacancies in regular positions shall be declared by the County Board under any of the following conditions:
    - 1) Death of a member.
    - 2) Resignation of a member.
    - 3) Removal of a member for cause as provided in this ordinance.
5. Removal. The following shall be deemed sufficient cause for the County Board to remove any PC/BOA member:
  - A. A member who fails to attend three (3) consecutive regular PC/BOA meetings.
  - B. Attendance at several regular PC/BOA meetings for such a short length of time as to render in the opinion and sole discretion of the County Board, the member's services of little value to the County.
  - C. Violation by the member of any land use control ordinance adopted by the County pursuant to Minnesota Statutes 394.27 to 394.37, or successor statutes.

- D. Any change in member residency status from unincorporated to incorporated, if the change causes the make-up of the PC/BOA to be inconsistent with this Ordinance. Also, any change in residency from the commissioner district the member was appointed to represent.
  - E. Inability to carry out the duties of the PC/BOA due to a conflict of interest.
  - F. A member who at a PC/BOA meeting engages in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.
  - G. Any other reason cited by the County Board, which in their determination negatively affects the member's ability to carry out the duties of the position, or constitutes misconduct warranting removal.
6. Organization and Procedures.
- A. Officers.
    - 1) Officers of the PC/BOA shall be a Chairperson and Vice-Chairperson.
    - 2) The PC/BOA authorizes the Zoning Administrator to appoint a County employee to assume the duties of secretary.
    - 3) Officers shall be elected by the PC/BOA at the first meeting held in a calendar year.
    - 4) In the event of a resignation of an officer, the PC/BOA shall fill the vacancy.
    - 5) The Chairperson shall preside at all meetings.
    - 6) The Vice-Chairperson shall assume the responsibilities of the Chairperson when the latter is not able to serve.
    - 7) In the event the Chairperson or the Vice-Chairperson is unable to serve, the remaining PC/BOA members shall appoint an acting Chairperson.
  - B. Meetings. Meetings shall be scheduled and conducted at such times as the Chairperson or the Zoning Administrator shall deem necessary and appropriate.
  - C. Voting.
    - 1) Each of the voting members, including the chair, shall be entitled to vote on all questions, unless a particular issue involves a conflict of interest.
    - 2) A decision to abstain from voting shall not include abstention from discussion.
    - 3) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the attending members except the member who is being challenged.
  - D. Records. The PC/BOA shall keep a written public record filed in the Department of all its proceedings, findings, and determinations on all matters referred to it and shall cause a copy of any order issued by the BOA acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance to be recorded with the County Recorder by the Zoning Administrator as necessary pursuant to Minnesota Statutes.
  - E. Compensation. The PC/BOA members may be compensated in an amount determined by the County Board and may be paid their necessary expenses in attending meetings and in the conduct of business of the PC/BOA.

## ARTICLE 29 CONDITIONAL USES

### SECTION 2901. CONDITIONAL USES

The Board recognizes that certain uses, while generally not suitable in a particular zoning district, may under some circumstances be allowed if conditions are attached. When such circumstances exist, a conditional use permit may be granted, and appropriate conditions attached. A conditional use permit shall be required in the following instances:

1. Proposed Uses. Only those uses listed as conditional uses within the applicable primary district or overlay district may be allowed through issuance of a conditional use permit.
2. Existing Uses. All uses existing at the time of adoption of this Ordinance that now require a conditional use permit may continue subject to the performance standards contained in this Ordinance. Any enlargement, structural alteration, modification, addition, or intensification of the use shall require a conditional use permit and the use shall be subject to the criteria and procedures for issuance of a conditional use permit set forth in this Ordinance.

### SECTION 2902. APPLICATION FOR CONDITIONAL USE PERMIT

1. An application for a conditional use permit shall be filed with the Zoning Administrator on forms provided by the Department.
2. The application shall include the following information as deemed necessary by the Zoning Administrator or by the Planning Commission/Board of Adjustment (PC/BOA):
  - A. A completed application form signed and dated by the applicant and property owner(s) and all applicable fees paid.
  - B. Written description of the intended type of business, use, or activity to be conducted on the property.
  - C. Written description of the type and number of vehicles (motorized and non-motorized, such as trailers), heavy machinery, and equipment to be used on the property.
  - D. Days and hours of operation.
  - E. Number of employees including subcontractors (full-time and part-time).
  - F. Site plan drawn to scale including the following information:
    - 1) Date of preparation, scale north arrow, property lines, and property dimensions.
    - 2) Existing and proposed buildings, well, septic system (or other restroom facilities), driveway access(es), and public or private easements, wooded areas, wetlands, drainageways, watercourses, location of roads, railroads, utilities, exterior lighting, parking areas, site stormwater drainage patterns, wells, fences, and outside storage areas.
    - 3) Existing vegetation and proposed plantings.
    - 4) Existing and proposed signage including a dimensional diagram of all proposed signage.

- G. Septic System Certificate of Compliance and well information (areas not served by public sewer and water).
  - H. Written description of any hazardous materials that will be generated or stored and the method of disposal.
  - I. Property deed or certificate of survey.
  - J. Construction plans and building elevations (if new construction).
  - K. Grading and drainage plan.
  - L. Estimate of the life expectancy of the use.
  - M. Soil erosion control plan (if required).
  - N. Wetland impact approval (if applicable).
  - O. Building floor plan including dimensions.
  - P. Reclamation plan (if required).
  - Q. Handicap accessibility plan (if required).
  - R. All required state or federal permits or licenses.
  - S. Waste management plan.
  - T. Proof of ownership or legal interest in the property.
  - U. Any additional information required by this Ordinance or requested by the Zoning Administrator or the PC/BOA specific to the request.
3. The Zoning Administrator shall notify the applicant in writing, within fifteen (15) business days of receipt of the application or such time as required by the Minnesota Statutes, Chapter 15.99, or successor statutes, if the application is found to be incomplete, noting what information is missing.

#### SECTION 2903. NOTICE AND HEARING PROCEDURE

1. Upon receipt of an application that contains all required information, the Zoning Administrator shall refer the matter to the PC/BOA and establish a date and time for a public hearing on the application.
2. At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official newspaper(s) of the county.
3. Notice of the public hearing shall also be given to the affected Board of Township Supervisors, and to the City Council of any municipality within two (2) miles of the affected property.
4. In unincorporated areas of the County, property owners of record within one-quarter (1/4) mile of the affected property or the ten (10) properties nearest to the affected property, whichever provides the greatest number of property owners, shall be notified in writing of the public hearing for any application for a Conditional Use Permit.
5. Where the subject site adjoins an incorporated area, written notice of all public hearings, in the case of conditional uses, shall be sent to property owners of record within 500 feet of the affected property.

6. In instances where the affected property is located within the Shoreland Overlay District or the Floodplain Overlay District, a copy of the notice of hearing shall be forwarded to the Department of Natural Resources and postmarked at least ten (10) days before the hearing date.
7. All written notifications shall be mailed ten (10) calendar days prior to the hearing. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings provided a bona fide attempt to comply has been made.
8. The applicant or his/her representative shall appear before the PC/BOA in order to answer questions concerning the proposed application.
9. The PC/BOA and Department shall have the authority to request additional information from the applicant concerning an application that is declared necessary to establish performance conditions in relation to all pertinent articles of this Ordinance. Failure of the applicant to supply all necessary supportive information may be grounds for denial of the request.

#### SECTION 2904. CRITERIA FOR CONSIDERING CONDITIONAL USE PERMITS.

1. In reviewing an application for a conditional use permit, the PC/BOA shall determine if the proposed use is in harmony with the general purpose and intent of this Ordinance and the Comprehensive Plan. In making a determination, the PC/BOA shall consider and make findings on the following criteria:
  - A. The impact of the proposed use on the health, safety, and general welfare of residents in the surrounding neighborhood.
  - B. The effect of the proposed use on existing public utilities, public services, parks, roads (including traffic and parking), and schools.
  - C. The effect of the proposed use on property values and future development of land in the surrounding neighborhood.
  - D. The ability of the proposed use to meet goals and policies adopted in the Comprehensive Plan.
  - E. The ability of the proposed use to meet the standards of the Zoning Ordinance or any applicable Minnesota rule or statute or federal law including a determination that the use is allowed with a conditional use permit in the designated zoning district in which it is proposed.
  - F. The effects of the proposed use on the environment including its impact on groundwater, surface water, and air quality.
  - G. The effect of the proposed use on existing natural historic, or scenic views or features in the surrounding neighborhood.
2. It is the responsibility of the applicant to present facts sufficient to prove that the criteria for approval of a conditional use permit have been satisfied.

## SECTION 2905. FINDINGS OF FACT

PC/BOA Findings of Fact and Recommendation. In conducting a public hearing, the PC/BOA shall make written findings of fact stating the reason for its recommendation to approve or deny the conditional use permit application. The findings of fact and recommendation shall be forwarded to the County Board which shall be considered in the County Board's action to approve or deny the application.

## SECTION 2906. NOTIFICATION OF FINAL ACTION

### 1. Notice and Certificate of Final Action.

- A. The County Board shall take action to approve or deny the application and shall make written findings of fact in support of its decision within the time frame permitted by Minnesota Statutes, Chapter 15.99, or successor statutes. If it grants the conditional use permit, the County Board may impose conditions it considers necessary to protect public health, safety, and general welfare. Such conditions will be administratively reviewed and, if violated, the County Board may order the revocation of the permit.
- B. The County Board shall forward to the Zoning Administrator the written findings of fact and its order regarding the conditional use permit application. The Zoning Administrator shall then file a certified copy of the County Board's order with the County Recorder. After recording, a copy of the County Board's order shall be sent to the applicant.
- C. In instances where the affected property is located within the Shoreland Overlay District or the Floodplain Overlay District, a copy of the final decision granting a conditional use permit shall be sent to the Department of Natural Resources and postmarked within ten (10) days of the final action.

## SECTION 2907. JUDICIAL APPEALS

All decisions of the County Board shall be final. Judicial review of County Board decisions shall occur as set forth by Minnesota Law. The findings of fact and decision shall also be mailed to all affected property owners who received written notice of the public hearing and shall be posted on the County's official notice board for three (3) days to serve as the notice of the decision to the public. A copy of the findings of fact and decision shall also be made available for public inspection in the office of the Department.

## SECTION 2908. REVIEW

A periodic review of the permit and its conditions shall be maintained. The permit shall be issued for a particular use on specific parcel and not for a particular person or firm.

## SECTION 2909. NONCONFORMITIES

In connection with the issuance of conditional use permits to nonconforming situations, the PC/BOA may require nonconformities to conform to the regulations contained in the zoning regulations and may impose such additional restrictions or conditions as it deems necessary to protect the public interest. When appropriate, restrictive covenants may be entered into regarding such matters.



#### SECTION 2910. COMPLIANCE

The use shall conform to the applicable sections of this Ordinance.

#### SECTION 2911. TERMS AND CONDITIONS

Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms and any conditions designated in the permit. Conditional use permits shall remain in effect for so long as the conditions agreed upon are observed provided that nothing in this Article shall prevent the County Board or the PC/BOA from acting or amending official controls to change the status of conditional uses.

#### SECTION 2912. PERMIT RE-APPLICATION

No application for a conditional use permit shall be resubmitted for a period of twelve (12) months from the date of an order of denial of the previous application, except the Zoning Administrator may permit a new application if, in the discretion of the Zoning Administrator, new evidence or a change of circumstances warrant it.

#### SECTION 2913. PERMIT RECORDING

A certified copy of a conditional use permit shall be filed with the office of the County Recorder. The conditional use permit shall include the legal description of the property. The Department shall maintain a record of all conditional use permits issued. A copy of the filed conditional use permit shall be mailed to the applicant.

#### SECTION 2914. CONDITIONAL USE PERMIT AMENDMENTS

A request to amend an existing conditional use permit shall be administered in the same manner that is required for a new conditional use permit application.

#### SECTION 2915. CONDITIONAL USE PERMIT EXPIRATION

A conditional use permit shall expire one (1) year after the County Board's final decision to grant the permit if no construction has begun or if use for which the conditional use permit was granted has not been established. For the purposes of this Article, construction shall include significant site preparation work including land clearing, excavation, and the installation of utilities necessary for the placement, assembly, or installation of facilities or equipment, the installation of footings, slab, foundation, posts, walls or other portions of a building. A request for an extension may be granted by the County Board upon written request of the property owner, provided there is reasonable cause for the request and further provided that the written request is made no less than thirty (30) days prior to expiration of the conditional use permit.

## SECTION 2916. REVOCATION OF CONDITIONAL USE

1. A violation of this Ordinance or any condition set forth in a conditional use permit shall be a violation of both the permit and this Ordinance.
2. Failure to correct a violation within thirty (30) days of written notice from the Zoning Administrator shall be grounds to revoke a conditional use permit through the following procedure:
  - A. The Zoning Administrator shall provide written notice to the permit holder advising that the conditional use permit may be revoked upon conclusion of a public hearing by the PC/BOA and upon review of the findings of fact by the County Board. The written notice shall also contain the nature of the violation and the facts that support the conclusions that a violation exists.
  - B. The PC/BOA shall hold a public hearing following the notice and hearing procedures set forth in Section 2903 of this Article.
  - C. The PC/BOA shall prepare written findings of fact setting forth its findings and recommendations to the County Board. The PC/BOA may recommend that there be a determination that there is no violation, that the permit be revoked, that the permit holder be allowed to seek an amendment of the permit to cure the violation, or any other course of action that the PC/BOA deems appropriate.
  - D. The County Board shall accept, reject, or modify the recommendation of the PC/BOA. In the event the County Board rejects or modifies the recommendation of the PC/BOA, it shall prepare written findings of fact giving its reasons for such rejection or modification.
  - E. Following the County Board's action, the County Board shall forward to the Zoning Administrator its findings of fact and order supporting its decision regarding the revocation of the conditional use permit. The Zoning Administrator shall then file a certified copy of the County Board's order with the County Recorder. After recording, a copy of the County Board's order shall be sent to the applicant.
  - F. Revocation of the permit shall be effective upon delivery of the County Board's order to the permit holder.

## ARTICLE 30 INTERIM USES

### SECTION 3001. INTERIM USES

1. Certain land development uses are designated as interim uses under this Ordinance. Conditions, in order to protect the public interest, may be applied to the issuance of an Interim Use Permit and a periodic review of the permit may be required. Under Minnesota Statutes, Section 394.303, or successor statutes; an Interim Use Permit may be granted if:
  - A. The use conforms to the zoning regulations;
  - B. The date or event that will terminate the use can be identified with certainty;
  - C. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
  - D. The user agrees to any conditions that Murray County deems appropriate for permission of the use.

### SECTION 3002. APPLICATION PROCESS

1. An application for an Interim Use Permit shall be filed with the Zoning Administrator on forms provided by the Department.
2. The application shall include the following information as deemed necessary by the Zoning Administrator or by the PC/BOA:
  - A. A completed application form signed and dated by the applicant and property owner(s) and all applicable fees paid.
  - B. Written description of the intended type of business, use, or activity to be conducted on the property.
  - C. Written description of the type and number of vehicles (motorized and non-motorized, such as trailers), heavy machinery, and equipment to be used on the property.
  - D. Days and hours of operation.
  - E. Number of employees including subcontractors (full-time and part-time).
  - F. Site plan drawn to scale including the following information:
    - 1) Date of preparation, scale north arrow, property lines, and property dimensions.
    - 2) Existing and proposed buildings, well, septic system (or other restroom facilities), driveway access(es), and public or private easements, wooded areas, wetlands, drainageways, watercourses, location of roads, railroads, utilities, exterior lighting, parking areas, site stormwater drainage patterns, wells, fences, and outside storage areas.
    - 3) Existing vegetation and proposed plantings.
    - 4) Existing and proposed signage including a dimensional diagram of all proposed signage.
  - G. Septic System Certificate of Compliance and well information (areas not served by public sewer and water).

- H. Written description of any hazardous materials that will be generated or stored and method of disposal.
  - I. Property deed or certificate of survey.
  - J. Construction plans and building elevations (if new construction).
  - K. Grading and drainage plan.
  - L. Estimate of the life expectancy of the use.
  - M. Soil erosion control plan (if required)
  - N. Wetland impact approval (if applicable).
  - O. Building floor plan including dimensions.
  - P. Reclamation plan (if required)
  - Q. Handicap accessibility plan (if required).
  - R. All required state or federal permits or licenses.
  - S. Waste management plan.
  - T. Proof of ownership or legal interest in the property.
  - U. Any additional information required by this Ordinance or requested by the Zoning Administrator or the PC/BOA specific to the request.
3. The Zoning Administrator shall notify the applicant in writing, within fifteen (15) business days of receipt of the application or such time as required by Minnesota Statutes, Chapter 15.99, or successor statutes; if the application is found to be incomplete noting what information is missing.

### SECTION 3003. NOTICE AND HEARING PROCEDURE

1. Upon receipt of an application that contains all required information, the Zoning Administrator shall refer the matter to the PC/BOA and establish a date and time for a public hearing on the application.
2. At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official newspaper(s) of the county.
3. Notice of the public hearing shall also be given to the affected Board of Township Supervisors and to the City Council of any municipality within two (2) miles of the affected property.
4. In unincorporated areas of the County, property owners of record within one-quarter (1/4) mile of the affected property or the ten (10) properties nearest to the affected property, whichever provides the greatest number of property owners, shall be notified in writing of the public hearing for any application for an Interim Use Permit.
5. Where the subject site adjoins an incorporated area, written notice of all public hearings, in the case of interim uses, shall be sent to property owners of record within 500 feet of the affected property.
6. In instances where the affected property is located within the Shoreland Overlay District or the Floodplain Overlay District, a copy of the notice of hearing shall be forwarded to the Department of Natural Resources and postmarked at least ten (10) days before the hearing date.

7. All written notifications shall be mailed ten (10) calendar days prior to the hearing. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings provided a bona fide attempt to comply has been made.
8. The applicant or his/her representative shall appear before the PC/BOA in order to answer questions concerning the proposed application.
9. The PC/BOA and Department shall have the authority to request additional information from the applicant concerning an application that is declared necessary to establish performance conditions in relation to all pertinent articles of this Ordinance. Failure of the applicant to supply all necessary supportive information may be grounds for denial of the request.

#### SECTION 3004. CRITERIA FOR CONSIDERING INTERIM USE PERMITS.

1. In reviewing an application for an interim use permit, the PC/BOA shall determine if the proposed use is in harmony with the general purpose and intent of this Ordinance and the Comprehensive Plan. In making a determination, the PC/BOA shall consider and make findings on the following criteria:
  - A. The impact of the proposed use on the health, safety, and general welfare of residents in the surrounding neighborhood.
  - B. The effect of the proposed use on existing public utilities, public services, parks, roads (including traffic and parking), and schools.
  - C. The effect of the proposed use on property values and future development of land in the surrounding neighborhood.
  - D. The ability of the proposed use to meet goals and policies adopted in the Comprehensive Plan.
  - E. The ability of the proposed use to meet the standards of the Zoning Ordinance or any applicable Minnesota rule or statute or federal law including a determination that the use is allowed with an interim use permit in the designated zoning district in which it is proposed.
  - F. The effects of the proposed use on the environment including its impact on groundwater, surface water, and air quality.
  - G. The effect of the proposed use on existing natural historic, or scenic views or features in the surrounding neighborhood.
2. It is the responsibility of the applicant to present facts sufficient to prove that the criteria for approval of an interim use permit have been satisfied.

#### SECTION 3005. FINDINGS OF FACT

PC/BOA Findings of Fact and Recommendation. In conducting a public hearing, the PC/BOA shall make written findings of fact stating the reason for its recommendation to approve or deny the interim use permit application. The findings of fact and recommendation shall be forwarded to the County Board which shall be considered in the County Board's action to approve or deny the application.

## SECTION 3006. NOTIFICATION OF FINAL ACTION

### 1. Notice and Certificate of Final Action.

- A. The County Board shall take action to approve or deny the application and shall make written findings of fact in support of its decision within the time frame permitted by Minnesota Statutes, Chapter 15.99, or successor statutes. If it grants the interim use permit, the County Board may impose conditions it considers necessary to protect public health, safety, and general welfare. Such conditions will be administratively reviewed and, if violated, the County Board may order the revocation of the permit.
- B. The County Board shall forward to the Zoning Administrator the written findings of fact and its order regarding the interim use permit application. The Zoning Administrator shall then file a certified copy of the County Board's order with the County Recorder. After recording, a copy of the County Board's order shall be sent to the applicant.
- C. In instances where the affected property is located within the Shoreland Overlay District or the Floodplain Overlay District, a copy of the final decision granting an interim use permit shall be sent to the Department of Natural Resources and postmarked within ten (10) days of the final action.

## SECTION 3007. JUDICIAL APPEALS

All decisions of the County Board shall be final. Judicial review of County Board decisions shall occur as set forth by Minnesota Law. The findings of fact and decision shall also be mailed to all affected property owners who received written notice the public hearing and shall be posted on the County's official notice board for three (3) days to serve as the notice of the decision to the public. A copy of the findings of fact and decision shall also be made available for public inspection in the office of the Department.

## SECTION 3008. EXISTING USES

All uses existing at the time of adoption of this Article that now require an Interim Use Permit may continue in the same manner of operation as the use did upon the effective date of this Article as amended. Any enlargement, structural alteration, or intensification of use shall require an Interim Use Permit as provided for in this Article.

## SECTION 3009. PERMIT RE-APPLICATION

No application for an interim use permit shall be resubmitted for a period of twelve (12) months from the date of an order of denial of the previous application, except the Zoning Administrator may permit a new application if, in the discretion of the Zoning Administrator, new evidence or a change of circumstances warrant it.

#### SECTION 3010. PERMIT RECORDING

A certified copy of an interim use permit shall be filed with the office of the County Recorder. The interim use permit shall include the legal description of the property. The Department shall maintain a record of all interim use permits issued. A copy of the filed interim use permit shall be mailed to the applicant.

#### SECTION 3011. INTERIM USE PERMIT AMENDMENTS

A request to amend an existing interim use permit shall be administered in the same manner that is required for a new interim use permit application.

#### SECTION 3012. INTERIM USE PERMIT AND OWNERSHIP TRANSFER

The interim use permit shall be issued to a specific applicant/owner for a specific use. If the applicant/owner or the use changes, the interim use permit shall become void.

#### SECTION 3013. INTERIM USE PERMIT EXPIRATION

An interim use permit shall expire one (1) year after the County Board's final decision to grant the permit if no construction has begun or if use for which the interim use permit was granted has not been established. For the purposes of this Article, construction shall include significant site preparation work including land clearing, excavation, and the installation of utilities necessary for the placement, assembly, or installation of facilities or equipment, the installation of footings, slab, foundation, posts, walls or other portions of a building. A request for an extension may be granted by the County Board upon written request of the property owner, provided there is reasonable cause for the request and further provided that the written request is made no less than thirty (30) days prior to expiration of the interim use permit. An interim use permit shall also expire if the use is discontinued for a minimum of one (1) year measured from the last day the use was in normal operation.

#### SECTION 3014. REVOCATION OF INTERIM USE

1. A violation of this Ordinance or any condition set forth in an interim use permit shall be a violation of both the permit and this Ordinance.
2. Failure to correct a violation within thirty (30) days of written notice from the Zoning Administrator shall be grounds to revoke an interim use permit through the following procedure:
  - A. The Zoning Administrator shall provide written notice to the permit holder advising that the interim use permit may be revoked upon conclusion of a public hearing by the PC/BOA and upon review of the findings of fact by the County Board. The written notice shall also contain the nature of the violation and the facts that support the conclusions that a violation exists.
  - B. The PC/BOA shall hold a public hearing following the notice and hearing procedures set forth in Section 3003 of this Article.

- C. The PC/BOA shall prepare written findings of fact setting forth its findings and recommendations to the County Board. The PC/BOA may recommend that there be a determination that there is no violation, that the permit be revoked, that the permit holder be allowed to seek an amendment of the permit to cure the violation, or any other course of action that the PC/BOA deems appropriate.
- D. The County Board shall accept, reject, or modify the recommendation of the PC/BOA. In the event the County Board rejects or modifies the recommendation of the PC/BOA, it shall prepare written findings of fact giving its reasons for such rejection or modification.
- E. Following the County Board's action, the County Board shall forward to the Zoning Administrator its findings of fact and order supporting its decision regarding the revocation of the interim use permit. The Zoning Administrator shall then file a certified copy of the County Board's order with the County Recorder. After recording, a copy of the County Board's order shall be sent to the applicant.
- F. Revocation of the permit shall be effective upon delivery of the County Board's order to the permit holder.

SECTION 3015. INTERIM USE PERMIT TERMINATION

- 1. An interim use permit shall terminate upon the occurrence of any of the following events, whichever occur first:
  - A. The date or event stated in the permit; or
  - B. A violation of conditions under which the permit was issued; or
  - C. A change in the Zoning Ordinance rendering the use nonconforming.
- 2. Following verification of any one (1) of the termination events, the Zoning Administrator shall, following issuance of a thirty (30) day notice of permit termination to the permit holder or property owner, file a notice of termination in the office of the County Recorder.



**ARTICLE 31 RESERVED**

## **ARTICLE 32 VARIANCES AND ADMINISTRATIVE APPEALS**

### **SECTION 3201. APPLICATION PROCESS**

1. An application for a Variance shall be filed with the Zoning Administrator on forms provided by the Department. The application shall be accompanied by a copy of the deed or certified survey of the property, a site plan, and any other information the Zoning Administrator may require for the purposes of administering this Ordinance.
2. An applicant must have an ownership interest in the property for which the application is made.
3. If the application does not contain all required information, the Zoning Administrator shall notify the applicant, in writing, within fifteen (15) business days of receipt of the application or such time as required by Minnesota Statutes Section 15.99, or successor statutes, noting what information is missing.

### **SECTION 3202. NOTICE AND HEARING PROCEDURES.**

1. Upon receipt of a variance application or appeal that contains all required information, the Zoning Administrator shall refer the matter to the BOA and establish a date and time for a public hearing on the variance application or administrative appeal.
2. The BOA shall hold a public hearing for all Variances and Appeals. Notice of time, place, and purpose of the public hearing shall be published in the official newspaper(s) of the County at least ten (10) calendar days prior to the date of the hearing. Notice of the public hearing shall also be given to the affected Board of Township Supervisors and the City Council of any municipality within two (2) miles of the affected property. In unincorporated areas of the County, property owners of record within 500 feet of the affected property shall be notified in writing of the public hearing for any application for a Variance.
3. All written notices shall be mailed no less than ten (10) calendar days prior to the hearing. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate any proceedings provided a bona fide attempt to comply with this Article has been made.
4. The applicant or his/her representative shall appear before the BOA to address questions regarding the proposed application.
5. The BOA and Department shall have the authority to request additional information from the applicant in the case of an appeal or application for a Variance that is declared necessary to verify information or establish performance conditions in relation to all pertinent sections of this Ordinance. Failure of the applicant to supply all necessary supportive information may be grounds for the denial of the request or appeal.

#### SECTION 3203. BOA FINDINGS OF FACT AND CERTIFICATION OF FINAL ACTION.

1. In conducting a public hearing in any case of an appeal or application for a Variance, the BOA shall prepare written findings of fact setting forth its findings and reasons for its decision.
2. The BOA shall forward to the Zoning Administrator the written findings of fact and its order regarding the appeal or Variance application. The Zoning Administrator shall then file a certified copy of the BOA's order with the County Recorder. After recording, a copy of the BOA's order shall be sent to the affected Township Board of Supervisors and to the applicant.

#### SECTION 3204. CRITERIA FOR CONSIDERING VARIANCES

1. Variances may be granted when it is determined that there are practical difficulties in complying with the official control. Variances shall only be permitted when they are in harmony with the general purposes and intent of the Ordinance and when they are consistent with the Comprehensive Plan.
2. A Variance may be granted only where the strict enforcement of County zoning controls will result in "practical difficulties." A determination that a "practical difficulty" exists is based upon the consideration of the following criteria:
  - A. Is the property owner proposing to use the property in a reasonable manner not permitted by the Zoning Ordinance?
  - B. Is the need for a Variance due to circumstances unique to the property and not created by the current or former property owner or owners?
  - C. Will the Variance maintain the essential character of the locality?
  - D. Does the need for a Variance involve more than economic considerations?
  - E. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
    - 1) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
    - 2) Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
    - 3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The BOA will evaluate the facts according to the criteria set forth in this Article in deciding whether to approve or deny a Variance application.
4. Where, in the opinion of the BOA, a Variance may result in an adverse effect on the environment, the applicant may be requested by the BOA to demonstrate the nature and extent of that effect.
5. It is the responsibility of the applicant to present facts to the BOA sufficient to prove that the criteria for the approval of a Variance have been satisfied.

#### SECTION 3205. VARIANCE CONDITIONS

The BOA may impose conditions on the granting of any variance. Conditions are to be directly related to the variance, must bear a rough proportionality to the impact created by the variance, and shall be what the BOA considers reasonable and necessary to protect the public health, safety and welfare.

#### SECTION 3206. TOWNSHIP CONSIDERATION

In exercising its power under this Article, the BOA shall take into consideration the affected town board's recommendations when making its decision.

#### SECTION 3207. REAPPLICATION.

A variance application may not be resubmitted for a period of at least one (1) year from the date the request is denied, unless the Zoning Administrator determines in his or her sole discretion that the application is substantially changed from the earlier denied request, or that there is new evidence, or that in the opinion of the Zoning Administrator a substantial change of circumstances exists.

#### SECTION 3208. EXPIRATION OF VARIANCE

The Zoning Administrator may, in his or her sole discretion, grant one (1) extension of this time period for up to one (1) year upon a written request of the property owner, if the written request is received at least thirty (30) days prior to the expiration of the one (1) year period, and if the Zoning Administrator determines that reasonable cause for the extension exists.

#### SECTION 3209. USE VARIANCE

No Variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

#### SECTION 3210. ADMINISTRATIVE APPEALS

1. An order, requirement, decision, or determination made by the Zoning Administrator may be appealed by any aggrieved party within ten (10) calendar days from the date of the decision by filing with the Department a written notice of appeal and paying any required fee. The notice of appeal shall state:
  - A. The particular order, requirement, decision, or specific determination from which the appeal is taken.
  - B. The name and address of the appellant.
  - C. The specific grounds for appeal, including all arguments as to why the appealing person believes the action being appealed was in error.
  - D. The specific relief requested by the appellant.

2. The BOA shall follow the appeals process as outlined in Section 3202 of this Article in making a decision on an administrative appeal. The BOA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that extent shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit.
3. It is the appealing party's burden to prove that the action of the Zoning Administrator was in error and should be reversed or modified.

#### SECTION 3211. VARIANCE OR APPEAL RECORDING

A certified copy of any order issued by the BOA acting upon a request for a variance, or upon any appeal from any order, requirement, decision or determination by an administrative official, shall be recorded with the County Recorder. The order issued by the BOA shall include the legal description of the property involved. The Zoning Administrator shall be responsible for the recording of such orders.

#### SECTION 3212. JUDICIAL APPEALS

All decisions of the PC/BOA shall be final except that any aggrieved person or persons, or any department, board of 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.

## ARTICLE 33 AMENDMENTS/REZONING

### SECTION 3301. AUTHORITY

Whenever the public necessity, convenience, general welfare or good land use require such amendment, the County Board may, by ordinance, amend, extend or add to the regulations of this Ordinance in accord with the applicable provisions of Minnesota Statutes 394.21 - 394.37, or successor statutes.

### SECTION 3302. APPLICATION

1. An application for amendment, extension or addition to the regulations of this Ordinance shall be filed with the Zoning Administrator by one (1) of the following:
  - A. A petition from a property owner(s).
  - B. A recommendation of the PC/BOA.
  - C. Action by the County Board.
2. Said application shall be filed at least twenty (20) days prior to any hearing thereon.
3. An application for an amendment not initiated by the PC/BOA shall be referred to the PC/BOA for study and report and may not be acted upon by the Board until it has received the recommendations of the PC/BOA.
4. Required information accompanying application to change the wording of this Ordinance shall contain the following:
  - A. Stated reason for change requested.
  - B. Statement on compatibility to the County Comprehensive Land Use Plan if applicable.
  - C. Text of portion of the existing ordinance to be amended.
  - D. Proposed amended text and statements outlining any other effects that the amendment may have on other areas of this Ordinance.
  - E. Additional information as may be requested by the PC/BOA.
5. Required information accompanying applications to change district boundaries of the official Zoning Map shall contain the following:
  - A. The names and addresses of the petitioner or petitioners, and their signatures to the petition.
  - B. A specific description of the area proposed to be rezoned, and the names and addresses of all owners of property lying within such area, and a description of the property owned by each.
  - C. The present district classification of the area and the proposed district classification.
  - D. Proposed use of the land (a statement of the type, extent, area, etc.).
  - E. Map and plot plan or survey.
  - F. Compatibility with the County Comprehensive Land Use Plan (a statement of conditions warranting change in zoning).
  - G. A legal description of the property (ies) to be rezoned.

- H. Map, plot plan, or survey plot of property to be rezoned (showing location, dimensions, zoning of adjacent properties, existing uses and buildings of adjacent properties within five hundred (500) feet in incorporated areas, and one-half (1/2) mile in unincorporated areas drawn to scale).
- I. Additional information as may be requested by the PC/BOA.

#### SECTION 3303. PROCEDURE

1. Upon receipt of the proper application and other requested material for amendment or rezoning, the PC/BOA shall hold a public hearing in a location to be prescribed. Such public hearings may be continued from time to time and additional hearings may be held.
2. Notice of the time, place and purpose of any public hearings shall be given by publication in a newspaper of general circulation in the town, municipality or other area concerned and in the official newspapers of the county, at least ten (10) days before the hearing.
3. For district boundary changes or zoning use changes, Paragraph 1 and 2 of this Section shall apply, plus written notice of public hearings shall be sent by letter to all property owners of record within five hundred (500) feet of the affected property in incorporated areas, and one-half (1/2) mile in unincorporated areas, the affected Board of Town Supervisors and the Municipal Council of and Municipality within two (2) miles of the affected property.
4. In areas where joint planning review processes are authorized, the PC/BOA may refer the proposed amendment request for review, comments, and recommendations prior to the public hearing.

#### SECTION 3304. ACTION AND AUTHORIZATION

1. Following the closing of the public hearing, the PC/BOA shall request the Zoning Administrator to report its findings and recommendations on the proposed amendment or rezoning to the County Board at their next regularly scheduled board meeting.
2. Upon the filing of such report or recommendation, the County Board may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the County Board may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if a majority of all members of the Board concur in its passage.

#### SECTION 3305. FEES

1. All applications for a zoning district boundary change or amendment to this Ordinance shall be accompanied by a fee set by resolution of the County Board.
2. Additional fees may be charged to the applicant for actual costs incurred by the county for legal, engineering and planning consultant assistance necessary for proper review and consultation to assist the PC/BOA and County Board in its decision making.

#### SECTION 3306. RECORDING

Upon the adoption of any ordinance or other official control including any maps or charts supplements to or as a part thereof, the County Auditor shall file a certified copy thereof with the County Recorder for record. Ordinances, resolutions, maps or regulations filed with the County Recorder pursuant to this Ordinance do not constitute encumbrances on real property.

#### SECTION 3307. EFFECTIVE DATE

The amended Ordinance shall become effective after adoption by the County Board and due publication thereof.



## ARTICLE 34 NON-CONFORMITIES

Within the primary and overlay districts established in this Ordinance or amendments that may later be adopted, certain situations may occur in which an existing use, lot or structure does not comply with the requirements contained in this Ordinance. It is the intent of this Ordinance to regulate such nonconforming situations in such a way that any nonconformity is managed in accordance with Article 34 of this Ordinance and Minnesota Statutes section 394.36; or successor statutes.

### SECTION 3401. NON-CONFORMING USE

1. Unless provided otherwise in Section 3401 of this Ordinance, any use legally existing on the effective date of this Ordinance shall only be allowed to continue subject to the following conditions:
  - A. A nonconforming use that existed prior to January 1, 2020, shall be allowed to continue subject to the standards in this ordinance. With the exception of animal feedlots, any expansion or addition shall only be allowed as a conditional use following the procedures set forth Article 29 of this Ordinance and further subject to the standards of this Ordinance. The nonconforming use may not be extended beyond the parcel boundary that existed on January 1, 2020.
  - B. A change from one (1) nonconforming use to another nonconforming use is prohibited.
  - C. For uses involving the removal of natural materials such as granite, sand, or gravel, the use may be expanded within the boundaries of the parcel where the use was established at the time it became nonconforming, subject to the standards contained in Article 21 of this Ordinance.
  - D. A nonconforming use that has been discontinued for a period of twelve (12) consecutive months shall not be re-established, and any further use shall be in conformity with this Ordinance, except as provided in Minnesota Statutes, Section 116.0711 governing Feedlot Permits; or successor statutes and Article 24 of this Ordinance.
  - E. If a structure used for a nonconforming use is destroyed by fire or other peril to the extent of fifty percent (50%) of its market value as indicated in the records of the County Assessor at the time of damage, replacement shall only be allowed as a conditional use following the procedures set forth in Article 29 of this Ordinance and further subject to the standards of this Ordinance, except as provided in Minnesota Statutes, section 116.0711 governing Feedlot Permits; or successor statutes and Article 24 of this Ordinance.
  - F. Except as set forth in Section 3401.1A of this Ordinance, a nonconforming use of a parcel of land may not be extended to cover more land than was occupied by that use when it became nonconforming.
  - G. A nonconforming use shall not be moved to any other part of the property on which it is located or to another property where it would still constitute a nonconforming use.

- H. A lawful, nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use.
- I. If a nonconforming use is replaced by a permitted use, the nonconforming status and any rights that arise under the provisions of this Section of the Ordinance are terminated.

## SECTION 3402. NONCONFORMING STRUCTURES

1. Nonconforming Structure Standards for all Districts. Unless otherwise provided in Article 34 of this Ordinance, any structure existing on the effective date of this Ordinance which is not in conformity with the setback, size or height requirements contained in this Ordinance is a nonconforming structure and may be allowed to continue subject to the following conditions:
  - A. Expansions of a nonconforming structure in any manner, including but not limited to expansion of height, width, footprint, size or bulk are allowed only in accordance with this Ordinance and are specifically limited by Section 3402.
  - B. Properties classified as homestead and nonhomestead residential and seasonal residential. A non-conforming structure may be continued including through repair, replacement, restoration, maintenance, or improvement, but not including expansion with the following exceptions:
    - 1) The structure is damaged by fire or other peril to the extent of fifty percent (50%) or more of its market value as indicated in the records of the County Assessor at the time of damage and no zoning certificate has been applied for within 180 days of when the structure was damaged, and any construction thereafter shall be in compliance with the provisions of this Ordinance. If a zoning certificate has been applied for within 180 days of when the structure was damaged, reasonable conditions may be placed upon the zoning certificate in order to mitigate any newly created impacts on adjacent properties or water bodies.
  - C. Properties not classified as homestead and nonhomestead residential or seasonal residential. If the nonconformity or occupancy of a nonconforming structure is discontinued for more than one (1) year, or the structure is damaged by fire or other peril to the extent of fifty percent (50%) or more of its market value as indicated in the records of the County Assessor at the time of damage, it shall be removed, and any construction thereafter shall be in compliance with the provisions of this Ordinance. Normal maintenance, including non-structural maintenance and repair, except structural alteration of a nonconforming structure, is permitted.
2. Nonconforming Structure Standards in the Floodplain Overlay District. In addition to the standards for nonconforming structures set forth in Section 3402.1 of this Ordinance, the following additional requirements shall apply in the Floodplain Overlay District.
  - A. Additions and alterations to nonconforming structures shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or floodproofing techniques allowable in the State Building Code except as further restricted in Sections 3402.2B and 3402.2D.

- B. The cost of all structural alterations or additions allowed in Section 3402.2A of this Ordinance, to a nonconforming structure shall not exceed fifty percent (50%) of the market value of the structure as indicated in the records of the County Assessor over the life of the structure, unless the conditions of this Article are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all labor. If the cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the market value of the structure, then the entire structure shall comply with the standards contained in Article 11 of this Ordinance for new structures.
  - C. If any nonconforming use or structure is substantially damaged, as defined in Article 4 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Article 11 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District.
  - D. If a substantial improvement occurs, as defined in Article 4 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Article 11 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.
3. Nonconforming Structure Standards in the Shoreland Overlay District. In addition to the standards for nonconforming structures set forth in Section 3402.1 of this Ordinance, the following additional requirements shall apply in the Shoreland Overlay District.
- A. Additions or alterations to a nonconforming accessory structure shall not be allowed unless the addition or alteration meets the minimum setback requirement for the applicable lake or river classification.
  - B. Additions or alterations to a nonconforming principal structure that is partially or wholly lakeward or riverward of an established building line, determined pursuant to Article 12 of this Ordinance, may be allowed, provided any addition or alteration is landward of the established building line, the provisions of Section 3402.3C of this Ordinance are met and all other provisions of this Ordinance are met. In instances where an established building line cannot be determined, additions or alterations shall not be allowed to a nonconforming principal structure unless the addition or alteration meets the minimum setback requirement for the applicable lake or river classification.
  - C. Any addition or alteration to a nonconforming structure that is located wholly or partly within the shore impact zone shall not be allowed.
  - D. Decks constructed in compliance with Article 12 of this Ordinance may be allowed, provided all other provisions of this Ordinance are met.

- E. If a nonconforming structure within a Shoreland Overlay District with less than fifty percent (50%) of the required setback from the water is damaged by fire or other peril to greater than fifty percent (50%) of its estimated market value as indicated in the records of the County Assessor at the time of the damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning certificate in order to mitigate any newly created impacts on adjacent properties or water bodies.
- F. Non-Conforming Retaining Walls. Consistent with Minnesota Statutes, Section 394.36, subd. 4; or successor statutes, existing retaining walls that are non-conforming may be replaced, provided the structure is not expanded, moved, increased in height or results in increased impact on the water body. The Board shall, in review of the project for a major shoreland alteration permit, set reasonable conditions and mitigation requirements to ensure structural integrity, aesthetic characteristics and to ensure natural resource protection goals are achieved for repair, replacement, restoration or improvement of said structure.
  - 1) Abandoned, discontinued or dysfunctional. If the nonconforming structure is abandoned, discontinued or dysfunctional in its original intent for a period of more than one (1) year, or is destroyed by fire or other peril to the extent of greater than fifty percent (50%) of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no zoning certificate or grading and filling permit has been applied for within 180 days of when the property is damaged, any subsequent use of the land or premises must conform to County standards.
- G. Non-Conforming Sand Blankets. Consistent with Minnesota Statutes, Section 394.36 Subd. 4; or successor statutes, existing sand blankets that are non-conforming may be replaced, provided the structure or blanket is not expanded, moved or results in increased impact on the water body. The Department shall, in review of the project for a minor shoreland alteration permit, set reasonable conditions and mitigation requirements to ensure aesthetic characteristics and natural resource protection goals are achieved for repair, replacement, restoration or improvement.

## SECTION 3403. NON-CONFORMING LOTS

1. Parcel of Record. All lots or tracts, the plat or deed to which has been recorded in the Office of the County Recorder on or before the effective date of this Ordinance shall be considered a parcel of record. A parcel of record shall be a legally buildable parcel even though such parcel may not conform to the lot area, lot width or residential density requirements of the applicable primary or overlay district, provided all of the following are met:
  - A. The use is permitted in the applicable zoning district; and
  - B. In the Shoreland Overlay District, the lot or tract has been in separate ownership from abutting lands at all times since it became nonconforming; and
  - C. In the Shoreland Overlay District, the impervious surface coverage does not exceed the allowable amount in accordance with Section 1211.2 of this Ordinance; and
  - D. The lot was created compliant with the official controls in effect at the time; and
  - E. The applicable setback requirements of this Ordinance are met; and
  - F. The sewage treatment system standards contained in Article 25 of this Ordinance are met.
2. Residual Parcels. A parcel of record, as defined in Section 3403.1 of this Ordinance, that is subsequently reduced to a residual parcel because of a taking or dedication for a public purpose or public right of way shall continue to be considered a parcel of record and shall be considered a legally buildable parcel, provided the applicable setback requirements of this Ordinance and the sewage treatment standards in Article 25 of this Ordinance are met.
3. Combined Lots or Parcels in Shoreland Overlay District. If, in a group of two (2) or more contiguous lots or parcels under the same ownership, any individual lot or parcel does not meet the lot area or width requirements set forth in Article 12 of this Ordinance, the lot or parcel shall not be considered as a separate lot or parcel for the purposes of sale, transfer or development; and the lot or parcel shall be combined with one (1) or more contiguous lots or tracts so that together, they equal one (1) or more lots or tracts, each meeting the requirements of this Ordinance.
  - A. Contiguous lots under the same ownership are exempt from this Article and may be considered as separate parcels for the purposes of sale, transfer or development if each individual lot meets all of the following requirements:
    - 1) The lot meets at least sixty-six percent (66%) of the dimensional standards for lot width and lot size for the Shoreland Overlay District within which it lies; and
    - 2) The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 subsurface sewage treatment system meeting the standards contained in Article 25 of this Ordinance; and
    - 3) Impervious surface coverage does not exceed the allowable amount in accordance with Section 1211.2 of this Ordinance; and
    - 4) Development of the lot is consistent with the Comprehensive Plan.
  - B. Contiguous lots under the same ownership are exempt from this Article and may be considered as separate parcels for the purposes of sale, transfer or development if each lot contained a habitable residential dwelling at the time the lots came under common

ownership and the lots are served by a public sewer, if available, or must be suitable for the installation of a subsurface sewage treatment system meeting the standards contained in Article 25 of this Ordinance.

- C. In Shoreland Overlay Districts, a portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.
4. Standards for Applications Involving Nonconformities in Shoreland Overlay Districts. In evaluating all variances, zoning and building permit applications or conditional use requests for nonconformities in Shoreland Overlay Districts, the County shall require the property owner to address, when appropriate:
- A. Stormwater runoff management;
  - B. Reducing impervious surfaces;
  - C. Increasing setbacks;
  - D. Restoration of wetlands;
  - E. Vegetative buffers;
  - F. Sewage treatment and water supply capabilities; and
  - G. Other conservation-designed actions.

## **ARTICLE 35 ADMINISTRATION, ENFORCEMENT AND PENALTIES**

### **SECTION 3501. OFFICE AND APPOINTMENT OF THE ZONING ADMINISTRATOR**

This Ordinance shall be administered and enforced by a Zoning Administrator appointed by the County Board.

### **SECTION 3502. DUTIES AND POWERS OF THE ZONING ADMINISTRATOR**

1. Determine if applications comply with the terms of this Ordinance.
2. Conduct inspections of structures and use of land to determine compliance with the terms of this Ordinance.
3. Maintain permanent and current records of this Ordinance, including but not limited to; maps, amendments, conditional uses, interim uses, variances, appeals and applications.
4. Receive, file and forward all applications for appeals, variances, conditional uses, interim uses, and amendments to the designated official bodies.
5. Institute in the name of the County any appropriate actions or proceedings against a violator as provided for.
6. Issue Zoning Certificates and maintain a file of all Zoning Certificates and Applications for same as public record.
7. Keep an up-to-date list of all non-conforming uses in the County.
8. Do all other activities necessary, or desirable in the administration of this Ordinance.

### **SECTION 3503. ENFORCEMENT**

1. The Zoning Administrator shall enforce the provisions of the Ordinance through the proper legal channels including the issuance of citations for zoning violations.
2. When any work has been stopped by the Zoning Administrator for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed.
3. It shall be the duty of the County Attorney and the County Sheriff, when called upon by the County Board of Commissioners to perform such duties as may be necessary to enforce the provisions of this Ordinance.
4. Other Enforcement Options. The enforcement process involving the issuance of citations for violations, and the other enforcement processes set forth herein are not the sole or exclusive means of enforcement, and are in addition to any other right, remedy, or cause of action the County may have under Minnesota Law to take actions, either civilly or criminally, to eliminate or resolve violations of this Ordinance. All such rights, remedies, and causes of action may, in the County's sole discretion, be exercised separately or in conjunction with one another and with such frequency as the County deems appropriate. In the event of a violation or a threatened violation of this Ordinance or any regulation or other official control adopted by the Board, the Zoning Administrator, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct, or abate such violations or threatened violations, and it shall be the duty of the Attorney to institute such action.

5. Any taxpayer or taxpayers of the County may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.
6. The County Attorney may at his discretion institute such action in a lesser court than the District Court.

#### SECTION 3504. ZONING CERTIFICATES

1. A zoning certificate shall be obtained before any person may:
  - A. Occupy or use any vacant land; or
  - B. Occupy or use any structure hereafter constructed, reconstructed, moved, altered, or enlarged; or
  - C. Change the use of a structure or land to a different use; or
  - D. Change a non-conforming use.
2. Application for a zoning certificate shall be made to the Zoning Administrator on blank forms furnished by the County. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory building to be erected. Applications for any kind of zoning certificate shall contain such other information as may be deemed necessary for the proper enforcement of this Ordinance or any other. The Zoning Administrator shall issue the zoning certificate only after determining that the building and site plans, together with the application, comply with the terms of the Ordinance.
3. A zoning certificate issued under the terms of this Ordinance shall be valid for one (1) year from the date of issuance.

#### SECTION 3505. VIOLATIONS AND PENALTIES

1. Violation Constitutes a Misdemeanor. 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, conditional uses, or interim uses) constitute a misdemeanor and will be punishable as defined by law.
2. Other Lawful Action. Nothing in this ordinance restricts Murray County from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this Ordinance and will be prosecuted accordingly.
3. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.



4. A violation of the provisions of Articles 11, 30, and 33 relating to Floodplain Overlay District or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variance) shall constitute a misdemeanor.
  - A. In responding to a suspected Ordinance violation, the Zoning Administrator and County Board may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The County must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program
  - B. When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the County's plan of action to correct the violation to the degree possible.
  - C. The Zoning Administrator shall notify the suspected party of the requirements of Article 11 and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the County. If the construction or development is already completed, the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30)days.
  - D. If the responsible party does not appropriately respond to the Zoning Administrator within specified period of time, each additional day that lapses shall constitute an additional violation of Article 11 and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.
5. Any violation of the provisions in Article 12, relating to Shoreland Overlay District or failure to comply with any of its requirements (including violations of conditions and safeguards established in with grants of variances, conditional uses, or interim uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Article 12, Section 1216, of this Ordinance.

## **ARTICLE 36 FEES**

### **SECTION 3601. REQUIRED FEES**

The fees for a zoning certificate, rezoning, variance, amendment, conditional use permit, interim use permit, septic permit, grading and filling permit, or subdivision/platting, shall be established by the Board. The Board may review and revise the fee schedule periodically. The Zoning Administrator shall issue the zoning certificate only after the fee has been paid and a determination has been made that the building plans, together with the application comply with the terms of this Ordinance. Any person filing a petition for an amendment to this Ordinance, requesting a variance or a change in regulations within any use district shall pay the prescribed fees according to the schedule established by the Board before any work proposed may commence. The fee is payable at the time of filing a petition and is not refundable.

## **ARTICLE 37 VALIDITY**

### **SECTION 3701. VALIDITY**

Should any Article or provisions of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**ARTICLE 38 REPEAL AND DATE OF EFFECT**

**SECTION 3801. REPEAL**

The Murray County Zoning Ordinance adopted December 28, 2004, and its amendments are hereby repealed.

**SECTION 3802. DATE OF EFFECT**

This Murray County Zoning Ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed and Approved the 22<sup>nd</sup> day of October 2019.

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David Thiner, Chairman, Murray County Board of Commissioners

**ATTEST:**

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Thomas Burke, Murray County Administrator

**Recommended by:** The Murray County Planning Commission

Date: June 24, 2019

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Kevin Vickerman, Chairman, Murray County Planning Commission

**ATTEST:**

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Jean Christoffels, Murray County Zoning/Environmental Administrator



## **RENEWABLE ENERGY**

# **ORDINANCE**

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**ARTICLE 1 TITLE**

The title of this ordinance is the Murray County Renewable Energy Ordinance and will be referred to herein as “this Ordinance”.



## ARTICLE 2 STATUTORY AUTHORIZATION AND PURPOSE

### SECTION 201. STATUTORY AUTHORIZATION.

This Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes 216B and 394, or successor statutes.

### SECTION 202. PURPOSE.

1. This Ordinance is established to set forth processes for permitting Renewable Energy from eligible energy technology as described in Minnesota Statutes 216B.1691, or successor statutes, to promote the health, safety, and general welfare of the citizens of Murray County, and shall include, but not be limited to, the following:
  - A. Wind Energy Conversion Systems (WECS) with a rated capacity of less than 25,000 kilowatts (kW) or twenty-five (25) megawatts (MW), and to regulate the installation and operation of WECS within Murray County not otherwise subject to siting and oversight by the State of Minnesota pursuant to Minnesota Statutes, Chapter 216F, or successor statutes.
  - B. Large and small Solar Energy Systems, and to regulate the installation and operation of a Solar Energy System within Murray County pursuant to Minnesota Statutes Chapters 216C.25, 500.30, or successor statutes, and Minnesota Rules Chapter 1325.1100, as amended.
2. This Ordinance implements the following Murray County Comprehensive Plan Goals: Energy Facilities and Renewable Energy. (Goal F.3)

### **ARTICLE 3 JURISDICTION**

The jurisdiction of this Ordinance shall apply to all areas in Murray County outside of the incorporated limits of municipalities, except those areas in Article 12, Section 1214.2 of the Murray County Zoning Ordinance.

#### **ARTICLE 4 INTERPRETATION**

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

## ARTICLE 5 RULES AND DEFINITIONS

### SECTION 501. RULES

For the purpose of this Ordinance, the following terms shall have the meaning given to them in this Article:

1. To the extent a term is used in this Ordinance is not defined in this Article, the term shall have the meaning given in the Murray County Zoning Ordinance.
2. The terms “must” and “shall” are mandatory and the terms “may” and “should” are permissive.
3. Unless otherwise defined, terms shall be given their common and ordinary meaning.

### SECTION 502. DEFINITIONS

1. **Aggregated Project.** Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.
2. **Aircraft Detection Lighting Systems (ADLS).** Sensor-based systems designed to detect aircraft as they approach an obstruction or group of obstructions; these systems automatically activate the appropriate obstruction lights until they are no longer needed by the aircraft. This technology reduces the impact of nighttime lighting on nearby communities and migratory birds and extends the life expectancy of obstruction lights.
3. **Array (Solar).** Any number of solar photovoltaic modules or collectors connected together to provide a single electrical output.
4. **Board.** Murray County Board of Commissioners.
5. **Board of Adjustment.** The Murray County Board of Adjustment as created by the Murray County Zoning Ordinance and appointed by the Board.
6. **C-BED (Community-based energy development) Project.** Based on the total name plate generating capacity, C-BED Projects are considered to be (1) Micro-WECS, (2) Non-Commercial WECS or (3) Commercial WECS as defined in this Article.
7. **Commercial WECS.** A WECS equal to or greater than 200 feet in total height.
8. **Comprehensive Plan.** The Murray County Comprehensive Land Use Plan, as adopted and amended.

- 9. Conditional Use.** A land use or development as is defined by the Murray County Zoning Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon the finding that: (1) certain conditions as detailed in the Zoning Ordinance exist, and (2) the structure and/or land use conform to the comprehensive land use plan of the County and (3) is compatible with the existing neighborhood.
- 10. County.** Murray County, Minnesota.
- 11. Decommissioning Plan.** The planned and orderly removal of the physical components of a renewable energy system and all accessory facilities, and restoration of the site.
- 12. Department.** The Murray County Environmental Services Office.
- 13. DNR.** Minnesota Department of Natural Resources.
- 14. Eligible Energy Technology.** As defined in Minnesota Statutes 216B.1691.
- 15. Energy Storage Systems.** Mechanism(s) to contain useful energy which can then be used at some later time in the future. Acceptable methods and technologies used to store various forms of energy include, but are not limited to, Batteries (Lithium ion, lead acid, lithium iron. Or other battery technologies), Flow Batteries, Flywheels, Compressed Air, Pumped Hydro-power, and Thermal.
- 16. FAA.** Federal Aviation Administration.
- 17. Fall Zone.** The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure.
- 18. Feeder Line.** Power lines that transport electrical power from one or more wind turbines to the point of interconnection with a high voltage transmission line.
- 19. Flicker.** The moving shadow cast by the rotating blades of a WECS, or any intermittent, repetitive, or rhythmic lighting effect that is a direct result of rotating WECS blades.
- 20. Generator nameplate capacity.** The maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a nameplate physically attached to the generator.
- 21. High-voltage transmission line.** A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of one hundred (100) kilovolts or more and is greater than 1,500 feet in length.
- 22. Hub Height.** The distance from the ground to the center axis of the turbine rotor.

- 23. Meteorological Tower.** For the purposes of this Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.
- 24. Micro-WECS.** A WECS which is less than one hundred (100) feet in total height.
- 25. MnDOT.** Minnesota Department of Transportation.
- 26. MPCA.** Minnesota Pollution Control Agency.
- 27. Nameplate Capacity.** The total maximum rated output of a solar energy system.
- 28. Native Prairie Plan.** The plan shall address steps to be taken to identify native prairie within the project area, measures to avoid impacts to native prairie, including foundations, access roads, underground cable and transformers, shall not be placed in native prairie unless addressed in the prairie protection and management plan.
- 29. Non-Commercial WECS.** A WECS equal to or greater than one hundred (100) feet in total height, but less than 200 feet in total height.
- 30. Photovoltaic Meter.** A meter used for the planning and maintenance of solar energy systems to identify the best location and to check modules for efficiency.
- 31. Power Purchase Agreement.** A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.
- 32. Project Boundary/Property line.** The boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.
- 33. Public conservation lands.** Land owned in fee title by State or Federal agencies and managed specifically for [grassland] conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this article, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
- 34. Renewable Energy System.** A collection of energy from sources that are not easily depleted such as moving water (hydro, tidal and wave power), biomass, geothermal energy, solar energy, wind energy, and energy from solid waste treatment plants.

- 35. Repowering.** Rebuilding a renewable energy system on a previously impacted site, preserving the existing compatible land uses.
- 36. Repowering, Full.** A full decommissioning and repowering of a renewable energy system on a previously impacted site.
- 37. Repowering, Partial.** A partial rebuilding of a renewable energy system where existing components are retrofitted or replaced to improve efficiency and extend the life of the system (e.g. replacing, refurbishing or retrofitting turbines, blades, gearboxes, generators, switchgears, panels, etc.).
- 38. Rotor diameter (RD).** The diameter of the circle described by the moving rotor blades.
- 39. Solar Collector.** A device, structure, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- 40. Solar Energy.** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- 41. Solar Energy Device.** A system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Said systems may also have the capacity to store energy for future utilization. Passive solar energy systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely part of a normal structure, such as a window.
- 42. Solar Energy 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 of land or solar sky space for the purpose of ensuring adequate exposure of a solar energy system as defined in Minnesota Statutes 216C.06, Subdivision 17, or successor statutes, to solar energy. Required contents of a Solar Easement are defined in Minnesota Statutes 500.30, or successor statutes.
- 43. Solar energy system.** A set of devices and associated facilities, including energy storage systems, 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.
- 44. Solar Energy System, Accessory Use.** A solar energy system that is secondary to the primary use of the parcel on which it is located, and which is directly connected to or designed to serve the energy needs of the primary use. Excess power may be sold to a power company.

- 45. Solar Energy System, Active.** A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
- 46. Solar Energy System, Building Integrated.** An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Such systems include, but are not limited to, solar energy systems that function as roofing materials, windows, skylights, and awnings.
- 47. Solar Energy System, Grid-intertie.** A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.
- 48. Solar Energy System, Ground-mounted.** A solar collector(s) located on the surface of the ground. The collector(s) may or may not be physically affixed or attached to the ground. Ground-mounted systems include pole-mounted systems.
- 49. Solar Energy System, Large.** A solar energy system with a nameplate capacity of forty (40) kilowatts or more.
- 50. Solar Energy System, Off-grid.** A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.
- 51. Solar Energy System, Passive.** A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the heat via a heat exchanger.
- 52. Solar Energy System, Primary Use.** A solar energy system which is the primary land use for the parcel on which it is located, and which generates power for sale to a power company, or other off-premise consumer.
- 53. Solar Energy System, Roof-mounted.** Solar collector(s) located on the roof of a building or structure. The collector(s) may or may not be physically affixed or attached to the roof.
- 54. Solar Energy System, Small.** A solar energy system with a nameplate capacity of less than forty (40) kilowatts.
- 55. Solar Energy System, Wall-mounted.** Solar collector(s) located on the wall of a building or structure.
- 56. Substation.** Any electrical facility containing power conversion equipment designed for interconnection with power lines.
- 57. Total Height.** The distance between the ground level at the base of a structure and its tallest vertical extension including any attachment thereon.



- 58. Total Name Plate Capacity.** The total of the maximum rated output of the electrical power production equipment for a WECS project.
- 59. Tower, Renewable Energy.** Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.
- 60. Tracking Solar System.** A solar system that follows the path of the sun during the day to maximize the solar radiation it receives.
- 61. Wind 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 of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds. Required contents of a Wind Easement are defined in Minnesota Statutes Section 500.30, or successor statutes.
- 62. Wind Energy Conversion System (WECS).** A device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy, including, but not limited to: power lines, transformers, substations, and meteorological towers. The energy may be used on-site or distributed into the electrical grid.
- 63. Wind Turbine.** Any equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.
- 64. Windmill, Functional.** A structure utilizing wind power for the pumping of water for agricultural use on the parcel of property on which the windmill is located.
- 65. Windmill, Ornamental.** A non-functional windmill used for decoration.
- 66. Zoning Administrator.** The person duly appointed by the Board and charged with the enforcement of this Ordinance or his/her authorized representative.
- 67. Zoning Ordinance.** The Murray County Zoning Ordinance, as adopted and amended.

## ARTICLE 6 PERMITTING PROCEDURES

### SECTION 601. PERMIT APPLICATION FOR WECS

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Murray County Zoning Ordinance and Minnesota Statutes Chapter 394, or successor statutes, except where noted below. An application to the County for a permit under this section is not complete unless it contains the following:

1. If required, a letter from the State Agency responsible for size determination of a project, pursuant to Minnesota Statutes 216F.011, or successor statutes.
2. The name(s) and address(es) of project applicant(s).
3. The name(s) and address(es) of the project owner(s).
4. The legal description(s) and address(es) of the land that is the site of the project.
5. A description of the project including: Number, type, total name plate generating capacity, tower height, rotor diameter, total height of all wind turbines, and means of interconnecting with the electrical grid.
6. Site layout, including the location of project area boundaries (wind rights purchased, leased, or acquired by easement), property lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
7. Documentation of land ownership or legal control of all property within a project boundary and current land use on the site and surrounding area.
8. Signed copy of the Power Purchase Agreement or documentation that the power will be utilized on-site.
9. The latitude and longitude of all individual wind turbines and Meteorological towers.
10. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the Proposed WECS.
11. Location of wetlands, scenic, and natural areas including bluffs within 1,320 feet of the proposed WECS.

12. Copies of all permits or documentation that indicates compliance with all other applicable State and Federal Regulatory Standards, including, but not limited to:
  - A. Uniform Building Code, as amended.
  - B. The National Electrical Code, as amended.
  - C. Federal Aviation Administration (FAA), as amended.
  - D. Minnesota Pollution Control Agency (MPCA)/Environmental Protection Agency (EPA), as amended.
  - E. Microwave Beam Path Study
  - F. Preliminary Acoustical Analysis
  - G. Noise Abatement Mitigation Plan.
  - H. Flicker Analysis.
  - I. Minnesota Pollution Control Agency, Minnesota Rules Chapter 7030, Noise Standards, as amended.
  - J. Wake Loss Study, if proposed project boundary is within a one (1) mile radius of another WECS project boundary.
13. Location of all known communications towers and microwave beam paths within a five (5) mile radius of the proposed WECS.
14. Location of all known public or private Airports or Heliports within five (5) miles of the proposed WECS.
15. Detailed Decommissioning Plan according to Section 1002 of this Ordinance.
16. Additional information stated in Minnesota Rules, part 7854.0500 (subpart 1), as amended.
17. Identification of all potential haul routes to be utilized for material transportation and construction activities including state, federal, county, township or private roads within the County. Must provide written documentation prior to construction commencement that all haul routes have been approved by each of the road authorities with jurisdiction through a signed Road Use Agreement and a Development Agreement.
18. Locations and site plans for all temporary, non-residential construction sites and staging areas.

19. Additional information, that due to the unique nature or characteristics of the specific project, the County deems necessary or desirable to properly process the application.

## SECTION 602. PERMIT APPLICATION FOR SOLAR ENERGY SYSTEMS

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Murray County Zoning Ordinance and Minnesota Statutes Chapter 394, or successor statutes, except where noted below. An application to the County for a permit under this section is not complete unless it contains the following:

1. A site plan of existing conditions showing the following:
  - A. Existing property lines and property lines extending one hundred (100) feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
  - B. Existing public and private roads, showing widths of the roads and any associated easements.
  - C. Location and size of any abandoned wells, sewage treatment systems and dumps.
  - D. Existing buildings and any impervious surface.
  - E. Topography at two (2) foot intervals and source of contour interval. A contour map of the surrounding properties may also be required.
  - F. Existing vegetation (list type and percent of coverage; i.e. grassland, plowed field, wooded areas, etc.)
  - G. Waterways, watercourses, lakes and public water wetlands.
  - H. Delineated wetland boundaries.
  - I. The Floodplain overlay district boundary, if applicable.
  - J. All overlay district boundaries, if applicable.
  - K. Mapped soils according to the Murray County Soil Survey.
  - L. Surface water drainage patterns.
2. Site Plan of Proposed Conditions.
  - A. Location and spacing of solar collectors.
  - B. Location of access roads.
  - C. Planned location of underground or overhead electric lines connecting the system to the building, substation or other electric load.

- D. New electrical equipment other than at the existing building or substation that is the connection point for the system.
  - E. Proposed erosion and sediment control measures.
  - F. Proposed storm water management measures.
  - G. Sketch elevation of the premises accurately depicting the proposed solar energy system and its relationship to any building or structures on adjacent lots.
  - H. Location of energy storage system, if any.
3. Manufacturer's specifications and recommended installation methods representative of all major equipment, including solar collectors, mounting systems and foundations for poles or racks.
  4. The number of collectors to be installed.
  5. A description of the method of connecting the system to a building or substation.
  6. A signed copy of the interconnection agreement with the local electric utility, a draft of the interconnection agreement with the local utility that must be signed and submitted prior to construction commencement, or a written explanation outlining why an interconnection agreement is not necessary.
  7. Maintenance plan for grounds surrounding the system(s).
  8. A plan outlining the use, storage, and disposal of chemicals used in the cleaning of the collectors and/or reflectors.
  9. Detailed Decommissioning Plan according to Section 1002 of this Ordinance.
  10. Identification of all potential haul routes to be utilized for material transportation and construction activities including state, federal, county, township or private roads within the County. Must provide written documentation prior to construction commencement that all haul routes have been approved by each of the road authorities with jurisdiction through a signed Road Use Agreement and a Development Agreement.
  11. Additional information, that due to the unique nature or characteristics of the specific project, the County deems necessary or desirable to properly process the application.

## ARTICLE 7 DISTRICT REGULATIONS

### SECTION 701. PERMITTED AND CONDITIONAL USES FOR WECS

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

District	Micro WECS	Non- Commercial < 100 kW	Commercial ≥ 100 kW	Meteorological Tower
1. Special Protection	C	C	NP	NP
2. Agricultural	P	P	C	P
3. Residential	C	C	C	P
4. Commercial	C	C	C	P
5. Industrial	C	C	C	P
6. Floodplain Overlay	C	C	C	P
7. Shoreland Overlay	C	NP	NP	NP
8. Closed Landfill Restricted Overlay	NP	NP	NP	NP
9. Airport Overlay	NP	NP	NP	NP
10. Drinking Water Management Overlay	P	P	C	P

**SECTION 702. PERMITTED AND CONDITIONAL USES FOR SOLAR ENERGY SYSTEMS**

Solar Energy Systems will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below (P=Permitted, C=Conditionally Permitted, NP=Not Permitted):

<b>District</b>	<b>Large Solar</b>	<b>Small Solar</b>	<b>Photovoltaic Meter</b>
1. Special Protection	C	P	P
2. Agricultural	C	P	P
3. Residential	C	P	P
4. Commercial	C	P	P
5. Industrial	C	P	P
6. Floodplain Overlay	NP	P	NP
7. Shoreland Overlay	NP	P	NP
8. Closed Landfill Restricted Overlay	C	C	C
9. Airport Overlay	C	C	C
10. Drinking Water Management Overlay	C	C	C



## ARTICLE 8 WECS GENERAL STANDARDS

All towers shall adhere to the setbacks established in the following table and subject to the General Regulations in Article 10 of this Ordinance.

### SECTION 801. SETBACKS FOR WECS

<b>Setbacks</b>	<b>Micro WECS</b>	<b>Non-Commercial</b>	<b>Commercial</b>	<b>Meteorological Tower</b>
1. Project Boundary/ Property Lines	1.1 times total height	1.1 times total height	3 RD east west axis and 5 RD north south axis	1.1 times total height, minimum 250 feet
2. Dwelling(s), other than project owners	1.1 times total height	500 feet and sufficient distance to meet state noise standards	1000 feet and sufficient distance to meet state noise standards	1.1 times total height, minimum 250 feet
3. Noise standard	Minnesota Rule 7030, as amended	Minnesota Rule 7030, as amended	Minnesota Rule 7030, as amended	NA
4. Road Rights of Way	1.1 times total height	1.1 times total height.	1.1 times total height.	1.1 times total height, minimum 250 feet
5. Other rights of Way(recreational Trails, power lines, etc.)	1.1 times total height	1.1 times total height.	1.1 times total height.	1.1 times total height, minimum 250 feet
6. Public Conservation Lands	1.1 times total height	1.1 times total height	3 RD east west axis and 5 RD north south axis	1.1 times total height, minimum 250 feet
7. Wetlands, USFW Types III, IV and V, greater than 10 acres	1.1 times total height	1.1 times total height	3 RD east west axis and 5 RD north south axis	1.1 times total height, minimum 250 feet
8. Other Structures	1.1 times total height	1.1 times total height	1.1 times total height	1.1 times total height, minimum 250 feet
9. Other existing WECS and Internal Turbine spacing	NA	3 RD east west axis and 5 RD north south axis	3 RD east west axis and 5 RD north south axis	NA

## SECTION 802. ADDITIONAL SETBACK REQUIREMENTS FOR WECS

1. Native Prairie – WECS and associated facilities shall not be placed in native prairie unless approved in native prairie protection plan. Native prairie protection plan shall be submitted if native prairie is present. The permittee shall, with the advice of the DNR and any others selected by the permittee, prepare a prairie protection and management plan and submit it to the Zoning Administrator and DNR Commissioner sixty (60) days prior to the start of construction.
2. Sand and Gravel Operations – WECS and associated facilities shall be prohibited in active sand and gravel operations.
3. Aviation (public and private airports) – No WECS or associated facilities shall be located to create an obstruction to navigable airspace of public and private airports in Murray County. Setbacks or other limitations determined in accordance with MnDOT Department of Aviation and Federal Aviation Administration (FAA) requirements.
4. Setbacks – Substations, accessory facilities, and power lines associated with the WECS must meet the requirements of Article 18, of the Zoning Ordinance.
5. The setback for dwellings, schools, churches, health care facilities, and campgrounds shall be reciprocal other than those owned by the project owner.
6. No wind turbines allowed within Shoreland Overlay Districts, except Micro WECS may be allowed by permission of the Murray County Planning Commission through the conditional use process and only in areas where electricity is not presently available.
7. All guy wires must meet the setbacks of the District.

## SECTION 803. WECS SAFETY DESIGN STANDARDS

1. Engineering Certification. For all WECS, the manufacturer’s engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
2. Clearance. At all times, rotor blades or airfoils must maintain at least thirty (30) feet of clearance between their lowest point and grade/ground surface.
3. Warnings.
  - A. For all WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

- B. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight (8) feet above grade/ground surface. Four marker balls shall be placed sixteen (16) feet above grade and at fifty (50) foot intervals along the guy wires from grade/ground surface. Visible, anti-climbing fencing shall be installed around anchor points of guy wires and tower base.
- C. All WECS and Meteorological towers more than one hundred (100) feet in overall height shall be required to have safety lighting.

#### SECTION 804. WECS HEIGHT STANDARDS

- 1. Total height. Non-Commercial WECS shall have a total height of less than 200 feet.
- 2. In those districts where meteorological towers are a permitted use, meteorological towers of less than 200 feet shall be exempt from the Conditional Use process established for structures exceeding height requirements

#### SECTION 805. WECS TOWER CONFIGURATION STANDARDS

- 1. All WECS must use self-supporting towers. The base for such towers shall be designed to anchor and support the tower for the site and shall be guarded against unauthorized climbing. The first twelve (12) feet of the tower shall be unclimbable by design or be enclosed by a six (6) foot high unclimbable fence with a secured access.
- 2. Meteorological towers may be guyed.
- 3. Color and Finish. All wind turbines and towers that are part of a WECS shall be white, grey or another non-obtrusive color. Blades may be black to facilitate deicing. Finishes shall be matte or non-reflective.
- 4. Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Aircraft Detection Lighting Systems may be used in accordance with FAA regulations.

## ARTICLE 9 REQUIREMENTS AND STANDARDS FOR SOLAR ENERGY SYSTEMS

All Solar Energy Systems shall adhere to requirements and standards of this Article and are also subject to the General Regulations in Article 10 of this Ordinance.

### SECTION 901. STANDARDS FOR LARGE SOLAR ENERGY SYSTEMS

1. Solar energy systems are the primary land use for the parcel on which the system is located and are distinguished from solar systems that are a secondary or accessory use. Solar energy systems are composed of multiple solar collectors on multiple mounting systems (poles or racks), and generally have a Direct Current (DC) rated capacity greater than one hundred (100) kilowatts.
2. All components of a large solar energy system, including converters and inverters, but not including roads, collector lines and fencing, must meet the structure setback for the zoning district, and be located a minimum of 200 feet from a residential dwelling not located on the property, and a minimum of one hundred (100) feet from the right of way of all roads. Fencing must be located a minimum of fifty (50) feet from the right of way of all roads.
3. Stormwater Management and Erosion and Sediment Control shall meet the requirements of the MPCA Construction Stormwater Permit requirements.
4. Foundations. The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar collectors are within accepted professional standards, given local soil and climate conditions.
5. Ground Cover. Ground cover shall consist of perennial vegetation and incorporate pollinator friendly species.
6. Other standards and codes. All solar energy systems shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; and the National Electric Code, as amended.
7. Power and communication lines. Power and communication lines running between the banks of the solar panels may be placed above ground, provided the lines are placed no higher than top of the solar modules. Power and communication lines to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Board in the following instances:
  - A. Where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

- B. When required by the utility company.
- C. Unless otherwise determined by the Board.

## SECTION 902. STANDARDS FOR SOLAR ENERGY SYSTEMS, ACCESSORY

Solar energy systems are a permitted accessory use in all zoning districts, subject to the following standards:

1. **Accessory Building Limit.** Solar energy systems, either roof or ground-mounted, do not count as an accessory building for the purpose of meeting limits on the number of accessory structures allowed per residential lot or the coverage limits, as set forth in the Zoning Ordinance.
2. **Height.** Active solar energy systems are subject to the following height requirements:
  - A. Building- or roof- mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar energy systems other than building- integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed.
  - B. Ground- or pole- mounted solar energy systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt.
3. **Location within Lot.** Solar energy systems must meet the accessory structure setback for the zoning district.
  - A. **Roof-mounted Solar Energy Systems.** In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two (2) feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
  - B. **Ground-mounted Solar Energy Systems.** Ground-mounted solar energy systems may not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.
  - C. **Large Ground-mounted Solar Energy Systems.** Ground-mounted solar energy systems that result in the creation of one (1) or more acres of impervious surface, must comply with the MPCA Construction Stormwater Permit Requirements.

4. Maximum Coverage.
  - A. Roof or building mounted solar energy systems, excluding building-integrated systems, shall not cover more than eighty percent (80%) of the south-facing or flat roof upon which the collectors are mounted. The total collector surface area of pole or ground mount systems in non-agricultural district shall not exceed one percent (1%) of the lot area.
  - B. Wall-mounted solar energy systems shall cover no more than twenty-five percent (25%) of any exterior wall facing a front yard.
5. Approved Solar Components. Electric solar system components must have an Underwriters Laboratory (UL) listing or equivalent.
6. Compliance with all other applicable State and Federal Regulatory Standards, including, but not limited to: Uniform Building Code, and the National Electric Code, as amended.
7. Utility Notification. No grid-intertie photovoltaic system shall be installed until evidence has been given to the Department that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

## ARTICLE 10 GENERAL REGULATIONS

### SECTION 1001. OTHER APPLICABLE STANDARDS

1. Other Signage. All signage on site shall comply with Article 20 of the Zoning Ordinance. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle, the compartment containing the electrical generator, of the WECS.
2. All power lines associated with the Renewable Energy System subject to Murray County Authority equal to or less than 34.5 kV in capacity shall be buried and located within the right-of-way, subject to prior approval of the road authority. Power lines installed as part of a Renewable Energy System shall not be considered an essential service. If not buried, the applicant/owner must apply for a variance and shall follow Article 32 of the Zoning Ordinance for variance procedures.
3. Waste Disposal. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
4. Orderly Development. Upon issuance of a conditional use permit, all Renewable Energy Systems, as defined by Minnesota Statute 216F, 216C.25, 500.30, or successor statutes, and/or Minnesota Rule 1325.1100, as amended, if applicable shall notify the Minnesota Public Utilities Commission (PUC) Energy Facilities Permitting program Staff of the project location and details on the survey form specified by the PUC.
5. Noise. All WECS shall comply with Minnesota Rules 7030, as amended, governing noise.
6. Electrical codes and standards. All Renewable Energy Systems and accessory equipment and facilities shall comply with the National and Minnesota Electrical Codes and other applicable standards, as amended.
7. Federal Aviation Administration (FAA). All WECS shall comply with FAA standards and permits.
8. Solar Glare Hazard Analysis Tool. The MnDOT Aeronautics shall complete an analysis of a solar project when said project is located within two (2) miles of an airport using the MnDOT Solar Glare Hazard Analysis Tool. A copy of the results shall be submitted to the Zoning Administrator.

9. Local Emergency Services Notification. The Applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer Fire Department(s), that serve the project area. The Applicant shall coordinate with local emergency services to develop and implement an emergency response plan for the project. A copy of the plan shall be submitted to the Zoning Administrator.

## SECTION 1002. ABANDONMENT AND DECOMMISSIONING

A Renewable Energy System shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the Renewable Energy System to service.

### 1. Abandonment and Decommissioning Plan.

#### A. The Plan shall contain:

- 1) A Description of how the project will be disconnected from the grid.
- 2) A detailed description of how the physical components will be removed, transported off-site, and disposed of. The description shall include the stepwise process of removal (e.g. how will the blades be removed, what components need to be broken down on site, what can be salvaged, and what and where it will be landfilled).
- 3) If any of the land is leased, a description of decommissioning, abandonment, and removal conditions included in landowner leases (e.g. how is it decided whether roads remain).
- 4) A statement of the restoration goal and a detailed description of how restoration will be accomplished.
  - a) All components and accessory facilities shall be physically removed to four (4) feet below grade level.
  - b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - c) Stabilization or re-vegetation of the site as necessary to minimize erosion.
- 5) A detailed estimate of decommissioning costs. This estimate should detail cost assumptions (e.g. number of days of crane rental, transportation costs, disposal fees, scrap value, etc.) and a timeline for updating the costs. The estimate shall be prepared by a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The cost estimate for removal shall include an adjustment for inflation over the expected life of the project.



- 6) A plan for decommissioning security, including the type of instruments being considered, a timeline for funding of the assurance (e.g. twenty-five percent (25%) of estimated cost in year ten (10), twenty-five percent (25%) in year fifteen (15)), a description of how the amount of money available will be reconciled with the changing cost estimates, and the proposed beneficiary of the security. The plan must be reviewed and updated every five (5) years with a copy of the updated plan submitted to the Murray County Planning Commission. The Board may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper decommissioning.
- 7) The plan shall also address road maintenance during and after completion of the decommissioning in compliance with this Ordinance.

#### SECTION 1003. REPOWERING

All repowering of existing Renewable Energy Systems, whether full or partial, must follow the same permitting procedures as that of new, according to Article 6 of this Ordinance.

#### SECTION 1004. INTERFERENCE

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within two (2) miles of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with County or MnDOT microwave transmissions.

#### SECTION 1005. AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC INFRASTRUCTURE

##### 1. Roads. Applicants shall:

- A. Identify all public roads to be used for the purpose of transporting Renewable Energy components, such as but not limited to, WECS, substation parts, materials, and/or equipment for construction, operation or maintenance of the Renewable Energy System and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
- B. Contact the road authority for road closures, road signage removals, road signage re-locating, road signage restoring, moving permits, culverts, access/driveway permits, tile outlet permits, widening road intersections, standard utility permits and any other road activities that may require permits.
- C. Contact the Murray County Dispatch prior to any road closures for the re-routing of emergency vehicles during the closure.

- D. Contact the road authority to conduct an inspection of the road conditions of the haul routes on or prior to pre-construction meeting and after construction.
  - E. Provide a Performance Bond to be held by the county until the Township and/or County road authority(ies) have provided the Murray County Auditor with a written release that all haul routes within their jurisdiction in Murray County have been returned to pre-construction condition.
2. Drainage System. The Applicant shall be responsible for immediate repair of damage to public and private drainage systems stemming from construction, operation, maintenance, or decommissioning.

## SECTION 1006. PRE-CONSTRUCTION MEETING

1. Applicant will conduct a Pre-Construction meeting prior to construction commencement with a written notice sent the following individuals a minimum of one week prior to said meeting:
  - A. Township Chairman
  - B. Murray County Highway Engineer and Ditch Inspector
  - C. Murray County Sheriff
  - D. Murray County Zoning/Environmental Administrator
  - E. Area Hydrologist, Minnesota Department of Natural Resources
  - F. Minnesota Pollution Control Agency
  - G. United States Farm Service Agency
  - H. Murray Soil & Water Conservation District
  - I. United States Fish & Wildlife Service
  - J. Minnesota State Historical Society
  - K. Two Planning Commission Members: Chair and County Board Representative
  - L. MnDOT

## SECTION 1007. ENERGY STORAGE SYSTEM

1. If the Renewable Energy System consists of some form of energy storage, adequate design must be provided to ensure all local, state, and federal requirements regulating energy storage have been met.
2. All energy storage structures must meet the required structure setbacks for the zoning district.

## **ARTICLE 11 ENFORCEMENT, VIOLATIONS, REMEDIES, PENALTIES AND FEES**

### **SECTION 1101. ENFORCEMENT, VIOLATIONS, REMEDIES, AND PENALTIES**

Enforcement of this Ordinance shall be done in accordance with process and procedures established in Article 35 of the Zoning Ordinance.

### **SECTION 1102. FEES**

1. The fees for a zoning certificate, variance, amendment, or conditional use permit, shall be established by the Board. The Board may review and revise the fee schedule periodically. The Zoning Administrator shall issue the Zoning Certificate only after the fee has been paid and a determination has been made that the building plans, together with the application comply with the terms of this Ordinance and the Zoning Ordinance. Any person filing a petition for an amendment to this Ordinance or requesting a variance shall pay the prescribed fees according to the schedule established by the Board before any work proposed may commence. The fee is payable at the time of filing a petition and is not refundable.

## **ARTICLE 12 VALIDITY**

### **SECTION 1201. VALIDITY**

Should any article, section or provisions of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**ARTICLE 13 REPEAL AND DATE OF EFFECT**

**SECTION 1301. REPEAL**

The Murray County Renewable Energy Ordinance adopted November 2, 2010, and its amendments are hereby repealed.

**SECTION 1302. DATE OF EFFECT**

This Murray County Renewable Energy Ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed and Approved the 22<sup>nd</sup> day of October 2019.

\_\_\_\_\_  
David Thiner, Chairman, Murray County Board of Commissioners

**ATTEST:**

\_\_\_\_\_  
Thomas Burke, Murray County Administrator

**Recommended by:** The Murray County Planning Commission

Date: June 24, 2019

\_\_\_\_\_  
Kevin Vickerman, Chairman, Murray County Planning Commission

**ATTEST:**

\_\_\_\_\_  
Jean Christoffels, Murray County Zoning/Environmental Administrator



# ***BUFFER ORDINANCE***

**Environmental Services Office  
Murray County Government Center  
2500 28<sup>th</sup> Street - PO Box 57  
Slayton, MN 56172-0057**

**Phone: (507) 836-1166**

**Fax: (507) 836-8904**

**Adopted: October 17, 2017**

# MURRAY COUNTY BUFFER ORDINANCE

## SECTION 1 STATUTORY AUTHORIZATION AND POLICY

- 1.1 **Statutory authorization.** This buffer ordinance is adopted pursuant to the authorization and policies contained in Minn. Stat. § 103F.48, and the county planning and zoning enabling legislation in Minn. Stat. Chapter 394.
- 1.2 **Purpose and intent.** It is the purpose and intent of the County to:
- 1.2.1 Provide for riparian vegetated buffers and water quality practices to achieve the following purposes:
    - 1) Protect state water resources from erosion and runoff pollution;
    - 2) Stabilize soils, shores and banks; and
    - 3) Protect or provide riparian corridors.
  - 1.2.2 Coordinate the implementation and enforcement of the water resources riparian protection requirements of Minn. Stat. § 103F.48 with the shoreland management rules and ordinances adopted under the authority of Minn. Stat. § 103F.201 to 103F.227 adopted under the authority of and the management of public drainage systems established under Minn. Stat. Chapter 103E where applicable; and
  - 1.2.3 Provide efficient and effective direction to landowners and protection of surface water quality and related land resources.

## SECTION 2 DEFINITIONS AND GENERAL PROVISIONS

- 2.1 **Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.
- 2.1.1 **Buffer** has the meaning provided in Minn. Stat. § 103F.48, subd. 1(c).
  - 2.1.2 **Buffer protection map** has the meaning provided in Minn. Stat. § 103F.48, subd. 1(d) and available on the Department of Natural Resources website.
  - 2.1.3 **BWSR** means the Board of Water and Soil Resources.
  - 2.1.4 **County** means Murray County, a political subdivision in the State of Minnesota.
  - 2.1.5 **County Board** means Murray County Board of Commissioners.
  - 2.1.6 **Cultivation farming** means practices that disturb root or soil structure or that impair the viability of perennial vegetation due to cutting or harvesting near the soil surface.
  - 2.1.7 **Drainage authority** has the meaning provided in Minn. Stat. §103E.005, subd. 9.
  - 2.1.8 **Drainage inspector**, also known as Ditch Inspector, has the meaning provided in Minn. Stat. § 103E.065.
  - 2.1.9 **ESO** means Murray County Environmental Services Office.



- 2.1.10 **Landowner** means the holder of the fee title, the holder's agents or assigns, any lessee, licensee, or operator and includes all land occupiers as defined by Minn. Stat. § 103F.401, subd. 7 or any other party conducting farming activities on or exercising control over the real property. Any notice or other communication to be provided herein shall be directed to the Landowner whose name and address appears on the County's Property Taxes Records and listed as the taxpayer. Notice on said landowner shall be considered sufficient notice to all those who may be considered a Landowner as defined in this Section.
- 2.1.11 **Local water management authority** has the meaning provided in Minn. Stat. § 103F.48, subd. 1(g).
- 2.1.12 **Normal water level** means the level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.
- 2.1.13 **Parcel** means a unit of real property that has been identified by a unique, locally defined property identification number or description maintained by the County.
- 2.1.14 **Public drainage system** has the meaning given in Minn. Stat. § 103E.005, subd. 12.
- 2.1.15 **Public Waters** has the meaning given in Minn. Stat. § 103G.005, subd. 15, which means public waters that are on the public waters inventory as provided in Minn. Stat. § 103G.201.
- 2.1.16 **SWCD** means Murray Soil and Water Conservation District.
- 2.1.17 **Validation of Compliance** means a notice issued by SWCD that validates that a sites(s) is compliant and that said validation is good as long as all practices identified/documented continue to be in place and substantially in the condition identified at the time of issuance.
- 2.2 **Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby
- 2.3 **Interpretation.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- 2.4 **Data sharing/management.**
  - 2.4.1 The County may enter into arrangements with an SWCD, a watershed district if applicable, BWSR and other parties with respect to the creation and maintenance of, and access to, data concerning buffers and alternative practices under this ordinance.
  - 2.4.2 The County will manage all such data in accordance with the Minnesota Data Practices Act and any other applicable laws.

## SECTION 3 JURISDICTION

- 3.1 **Jurisdiction.** The provisions of this ordinance apply to all waters, including public drainage systems for which the County is not the drainage authority under Minn. Stat. Chapter 103E, shown on the buffer protection map.

## SECTION 4 BUFFER REQUIREMENTS

- 4.1 **Buffer width.** Except as provided in subsection 4.4 and 4.5, a landowner must establish and maintain a buffer area as follows:
- 4.1.1 Fifty (50) foot average width and a thirty (30) foot minimum width buffer as measured according to subsection 4.2 for waters shown on the buffer protection map requiring said width, unless a greater width is required in Section 16 of the Murray County Zoning Ordinance.
  - 4.1.2 Sixteen and a half (16.5) foot minimum width buffer as measured according to subsection 4.2 for waters shown on the buffer protection map requiring said width, unless a greater width is required in Section 16 of the Murray County Zoning Ordinance.
  - 4.1.3 Compliance with subsection 4.1(A) and (B) also constitutes compliance with Murray County Zoning Ordinance Section 16.
- 4.2 **Measurement.**
- 4.2.1 The width of any required buffer on land adjacent to a water requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer shall be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level as provided in Minn. Stat. § 103F.48, subd. 3(c).
  - 4.2.2 The width of any required buffer on land adjacent to a water requiring a sixteen and a half (16.5) foot minimum width buffer shall be measured in the same manner as for measuring the vegetated grass strip under Minn. Stat. § 103E.021, subd. 1 as provided in Minn. Stat. § 103F.48, subd. 3(c).
- 4.3 **Use of buffer area.** Except as provided in sections 4.4 and 4.5 a buffer as defined in this ordinance may not be put to any use, included but not limited to cultivation farming, which would remove or prevent the permanent growth of perennial vegetation.
- 4.4 **Exemptions.** The requirement of section 4.1 does not apply to land that is exempted under Minn. Stat. §103F.48, subd. 5.
- 4.5 **Alternative practices.** As provided in Minn. Stat. § 103F.48, subd. 3(b), an owner of land that is used for cultivation farming may demonstrate compliance with subsection 4.1 by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative, and management practice(s) which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in sections 4.1 to 4.3, based on:
- 4.5.1 The Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
  - 4.5.2 Common alternative practices adopted and published by BWSR;
  - 4.5.3 Practices based on local conditions approved by the SWCD that are consistent with the NRCS FOTG; or
  - 4.5.4 Other practices adopted by BWSR
- 4.6 **Nonconformity.** Where the provisions of any statute, other ordinance or regulation imposes greater restrictions than this ordinance, the provisions of such shall be controlling. The continuation of nonconformities provided for by Minn. Stat. Chapters 394 and 462 shall not apply to compliance with this ordinance and Minn. Stat. § 103F.48.

## SECTION 5 COMPLIANCE DETERMINATIONS

- 5.1 **Compliance determinations.** Compliance status will be determined by the SWCD on a parcel by parcel basis for those parcels adjacent to public waters identified on the Buffer Protection Map. For those parcels adjacent to public drainage systems identified on the Buffer Protection Map, compliance status will be determined by the Drainage Inspector as allowed by Minn. Stat. Chapter 103E. The compliance status of each bank, or edge of a waterbody on an individual parcel will be determined independently.
- 5.2 **Notification of Noncompliance.** When the ESO receives a notice of noncompliance or a third-party complaint from a private individual or entity, or from another public agency, it will consult with the SWCD or the Drainage Inspector, as appropriate, to determine the appropriate course of action to confirm compliance status. This may include communication with the landowner, inspection, or other appropriate steps necessary to verify the compliance status of the parcel. On the basis of this coordination, the SWCD or the Drainage Inspector, as appropriate, may issue a Notification of Noncompliance to the ESO. If the SWCD or the Drainage Inspector, as appropriate, does not issue such a notification, the ESO will not pursue a compliance or enforcement action under Minn. Stat. §103F.48 and subsection 6.2.
- 5.2.1 **Compliance determination.** At any time during noncompliance, the landowner may provide documentation of compliance to the SWCD or the Drainage Inspector, as appropriate. The SWCD or the Drainage Inspector, as appropriate, will evaluate the documentation, or review the buffer and/or alternative practices to determine if the parcel is in compliance and issue its determination in writing to the landowner. The SWCD or the Drainage Inspector, as appropriate, may issue a Validation of Compliance if applicable and requested by the landowner. A Validation of Compliance must also be sent to the ESO. The SWCD or the Drainage Inspector, as appropriate, must send a copy of noncompliance determination to the ESO and BWSR.
- 5.3 **Corrective Action Notice.** On receipt of Notification of Noncompliance, the ESO will issue the landowner of record a Corrective Action Notice that will:
- 5.3.1 include a list of corrective actions needed to comply with the requirements of Minn. Stat. §103F.48;
  - 5.3.2 provide a timeline for complying with this notice;
  - 5.3.3 provide a compliance standard against which it will judge the corrective action; and
  - 5.3.4 include a statement that failure to respond to this notice will result in criminal charges filed by the ESO.

The ESO may, in its judgment, also name a tenant or other person with control over that part of the property subject to section 4 as a responsible party. The ESO shall transmit the corrective action notice by either personal service to the landowner or by depositing the same in the U.S. Mail. If service is made by U.S. mail, the document is deemed received three business days after the notice was placed in the U.S. mail. Failure of actual receipt of a corrective action notice that has either been personally served or served by depositing the same in the U.S. Mail shall not be deemed a defense in an enforcement proceeding under section 6. The ESO must send a copy of the notice to the SWCD or Drainage Inspector, as appropriate, and BWSR.

- 5.3.5 At any time during noncompliance, the landowner may provide documentation of compliance to the SWCD, Drainage Inspector, as appropriate, or ESO. In addition, the landowner may supply information in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, the ESO, in writing, may modify the Corrective Action Notice and/or timeline in accordance with this section. The SWCD or Drainage Inspector, as appropriate, should determine if the noncompliance has been fully corrected and issue its determination in writing to the landowner and ESO.
- 5.3.6 The SWCD or Drainage Inspector, as appropriate, may issue a Validation of Compliance if requested by the landowner. On ESO receipt of the validation, the Corrective Action Notice will be deemed withdrawn for the purpose of section 6, and the subject property will not be subject to enforcement under that section.
- 5.3.7 A Notice of Noncompliance is not considered a final decision subject to appeal to BWSR.

## **SECTION 6 ENFORCEMENT**

- 6.1 A landowner who fails to comply with a corrective action notice issued under section 5 is guilty of a misdemeanor, punishable by up to 90 days imprisonment and/or up to a \$1,000.00 fine. Each day that a violation is permitted to exist shall constitute a separate offense.
- 6.2 Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any other provisions of this ordinance shall be guilty of a misdemeanor, punishable by up to 90 days imprisonment and/or up to a \$1,000.00 fine. Each day that a violation is permitted to exist shall constitute a separate offense. The County Attorney shall have the authority to prosecute any and all violations of this Ordinance.
- 6.3 In the event of a violation or a threatened violation of this ordinance, the County, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations.

**SECTION 7 DATE OF EFFECT**

7.1 The Murray County Buffer Ordinance shall be in full force and effect from and after its passage and publication according to law.

Adopted by the Murray County Board of Commissioners this 17th Day of October, 2017.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Glenn Kluis, Chairman of the Board

ATTEST:

\_\_\_\_\_  
Aurora Heard, County Coordinator

Recommended By: The Murray County Planning Commission

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

\_\_\_\_\_  
Ron Holinka, Chairman

ATTEST:

\_\_\_\_\_  
Jean M. Christoffels, County Zoning/Environmental Adm