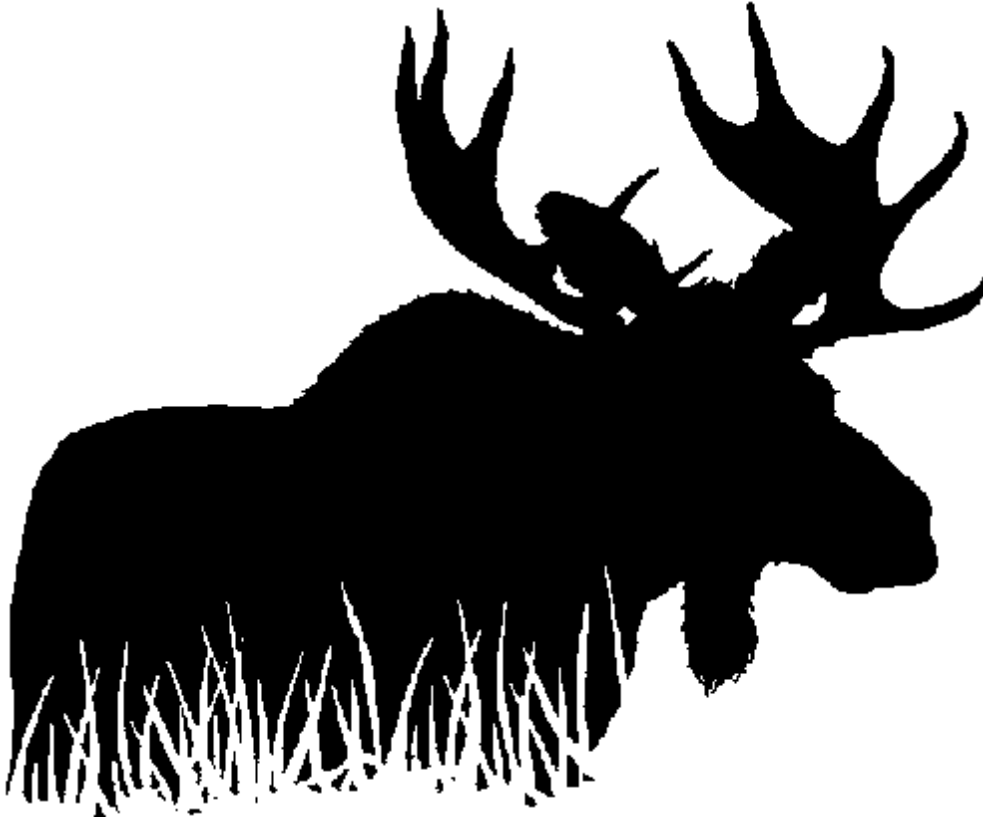


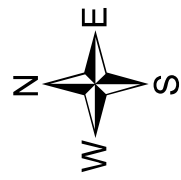
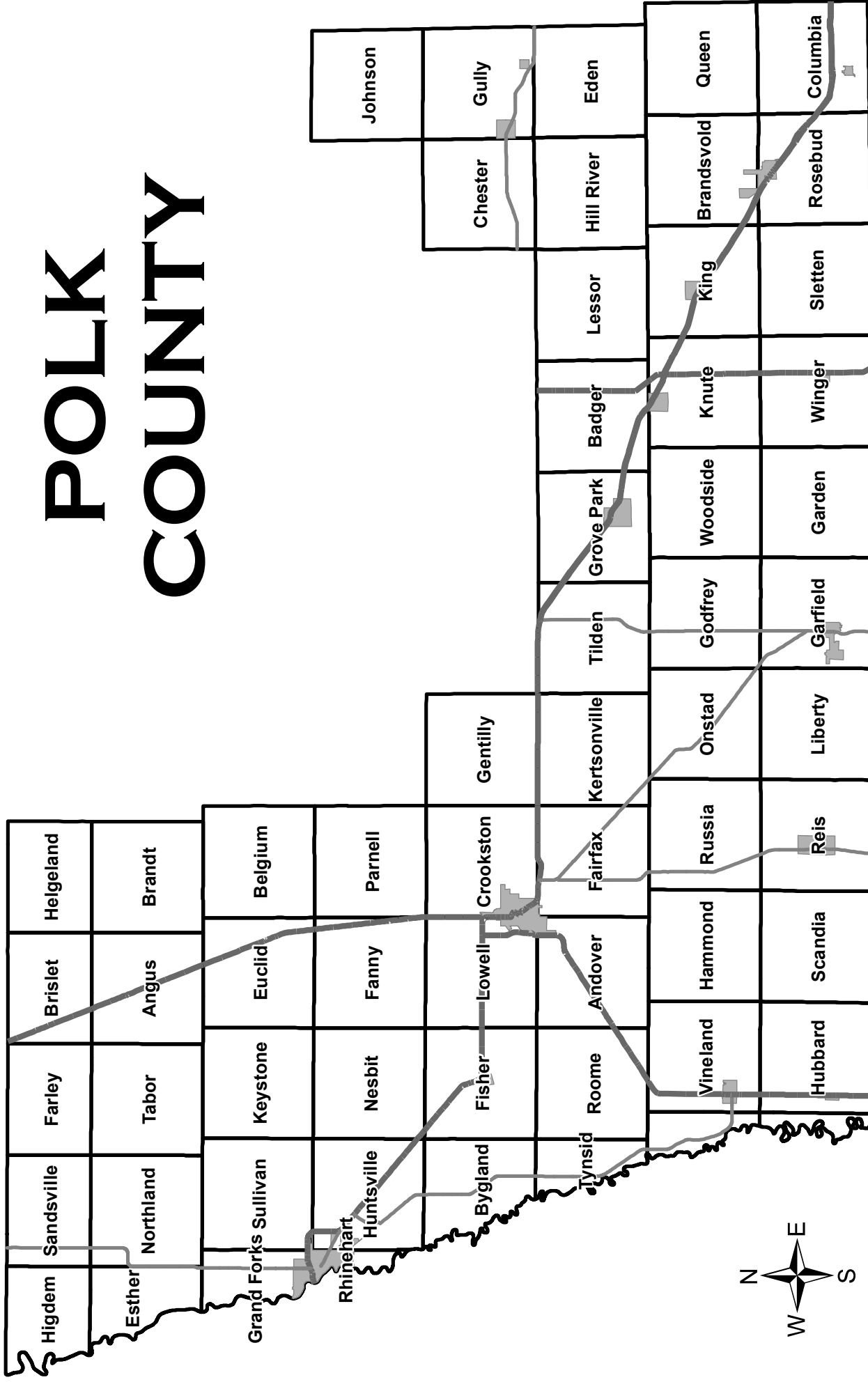
POLK  
COUNTY



ZONING  
ORDINANCE


REVISED 6-1-2021

# POLK COUNTY



Map Created by  
Polk County  
Environmental Services



-  Cities
-  US Hwy
-  State Hwy
-  Townships

**POLK COUNTY  
FEE SCHEDULE FOR ZONING PERMITS**

I. LAND USE PERMIT

A. Shoreland, AG, Village, Commercial, Industrial Dist.      B. Floodplain District

1	Residential Dwelling	\$200.00	\$400.00 *
1a	Accessory Structure <800sq ft	\$50.00	\$250.00
1b	Accessory Structure >800sq ft	\$100.00	\$300.00 *
1c	Alteration	\$50.00	\$250.00 *
2	Agricultural Building	\$50.00	\$250.00 *
3	Commercial/Industrial Building	\$250.00	\$450.00 *
3a	Accessory Structure	\$50.00	\$250.00 *
3b	Alteration	\$50.00	\$250.00 *
4	Land Alteration - Grade/Fill/Dike/Excavation	\$100.00	

II. CONDITIONAL USE PERMIT \$300.00  
 AFTER THE FACT CUP \$1,000.00

III. ADMINISTRATIVE ALTERATION/VARIANCE \$125.00

IV. VARIANCE \$300.00

AFTER THE FACT Variance \$1,000.00  
 ATF Variance if approved fees + \$300 or 3% construction \$\*\*\*

V. ADMIN REVIEW / APPEALS \$250.00

VI. AFTER THE FACT \*\* TRIPLE PERMIT FEE

VII. ORDINANCE AMENDMENT \$300.00

VIII. REZONE \$300.00

IX. SEPTIC SYSTEM

Install by Licensed Installer \$150.00

Install by home owner \$300.00

Commercial system >2,500 gpd \$300.00 + inspection cost

Soil verification/additional site visit \$50.00

XII. PLATS/PUDS/CAMPGROUNDS \$300.00 + \$50/lot

XIII. INTERIM USE PERMIT \$125.00

XIV. ADMINISTRATIVE SPECIAL USE \$125.00

XV. PENALTY FEE (can be added to After-the-fact) \$150.00

\* REFUND OF \$200.00 UPON RECEIPT OF COMPLIANT CERTIFICATE OF ELEVATION  
 \*\* IF PERMIT NOT ISSUED, PERMIT FEE(S) WILL BE REFUNDED MINUS \$150 PENALTY  
 \*\*\* \$300 or 3% of total construction cost whichever is greater to secure a permit

X. WAIVER OF FEES - The Board of County Commissioners may waive all or part of any fee for a particular project if it is deemed to be of such size, duration, or other such circumstances as to not warrant the full fee.

Townships that have JOINT PERMITTING

Cities that need County permit

Andover	Huntsville	Onstad	Gentilly	Keystone
Bygland	Liberty	Parnell	Euclid	Mallory
Crookston	Lowell	Rhinehart	Tabor	Eldred
Esther	Northland	Sullivan	Angus	
Grand Forks			Sherack	

AIRPORT DISTRICTS THAT REQUIRE JOINT PERMITTING

Crookston Fertile & Fosston

**APPROVED BY THE COUNTY BOARD Nov 2020  
 EFFECTIVE AS OF 01/01/2021**

# **POLK COUNTY ZONING ORDINANCE**

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- 1.2000            Policy
- 1.3000            Purpose

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- 2.5000            Severability
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18.2210	Placement of Structures on Lot
18.2220	Design Criteria for Structures
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18.4200	Processing of "PUDS"
18.4300	Application for a "PUD"
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19.2000	Variances
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20.1000	General Provisions
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- 21.1000            Alternative Local Standards Adopted By Reference
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- 21.5000            Local Standards for Vertical Separation
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- 23.2100            WECS District Regulations
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- 23.2300            WECS Requirements and Standards
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## **SECTION 1 STATUTORY AUTHORIZATION AND POLICY AND PURPOSE**

### **1.1000 STATUTORY AUTHORIZATION**

- 1.1010 This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapter 394, planning and zoning enabling legislation, Minnesota Statutes Chapter 103F, delegating responsibility to local government units to adopt regulations designed to minimize flood losses, Minnesota Statutes Chapter 103F.48, the Buffer Law, Minnesota Regulations 6120.2500 - 6120.3900, statewide standards for the management of shoreland areas, and Minnesota Rules 6120.5000 - 6120.6200, statewide standards for floodplain management.

### **1.2000 POLICY**

- 1.2010 The flood hazard areas of Polk County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
- 1.2020 The uncontrolled use of shorelands of Polk County, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use, and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Polk County, Minnesota.
- 1.2030 The control of land use in the unincorporated area of Polk County will promote orderly and aesthetic development and encourage a logical sequence of development. Incompatible land uses should be separated thereby promoting the health, safety, and public welfare and enhancing the local tax base. It is in the best interest of the public to provide for the wise subdivision, use, and development of the lands of Polk County.

1.2040 That an efficient and profitable livestock industry is an economic benefit to Polk County. It provides 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 the livestock production have the potential, when improperly stored, transported or disposed, to contribute to air, surface water, and ground water pollution. When properly utilized, such wastes contribute to soil fertility and structure and enhance efficient crop production. This ordinance has been promulgated to promote the orderly development of livestock agriculture and to reduce the risk of pollution and damages to natural resources, and to maintain and improve the quality of life in Polk County.

Section 19 of this ordinance addresses feedlot production sites as well as waste storage and land application and complies with the policies and purposes of the State of Minnesota statutes and rules regarding control of pollution.

#### 1.3000 PURPOSE

1.3010 It is the purpose of this Ordinance to promote the public health, safety, and general welfare in Polk County, Minnesota, to minimize losses caused by periodic inundation of flood hazard areas, to control the use of shorelands to reduce the pollution of public waters, to provide objective, reasonable and consistent rules that govern feedlot location, operation and management for feedlot owners and property owners located near feedlots, to enhance the local tax base, and to encourage the most appropriate use of land.

## **SECTION 2 GENERAL PROVISIONS**

### **2.1000 JURISDICTION**

- 2.1010 The provisions of this ordinance shall apply to all the area of Polk County, Minnesota, outside the incorporated limits of municipalities.

### **2.2000 COMPLIANCE**

- 2.2010 The use of any land, the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and subsurface sewage treatment systems; the grading and filling of any area; the cutting of vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.

### **2.3000 ENFORCEMENT**

- 2.3010 The Zoning Administrator is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 4.3000 of this ordinance.

### **2.4000 INTERPRETATION**

- 2.4010 In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- 2.4020 If any Rule or Statute referenced or adopted by this ordinance is amended or recodified during the effective period of this ordinance, the ordinance shall be interpreted to include the amendment or recodification, as long as this interpretation is consistent with the purpose, policy and intent of this ordinance.

### **2.5000 SEVERABILITY**

- 2.5010 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.

## 2.6000 ABROGATION AND GREATER RESTRICTIONS

- 2.6010 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.

## 2.7000 SUPREMACY

- 2.7010 When any condition imposed by any provision of this Ordinance on the use of land or building or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other community ordinance or regulation, the more restrictive conditions shall prevail.

## 2.8000 ORDINANCES REPEALED

- 2.8010 The Polk County Interim Zoning Ordinance, adopted April 2, 1969, and all amendments thereto, the Polk County Zoning Ordinance, adopted September 3, 1971, and all amendments thereto, the Polk County Shoreland Management Ordinance, adopted July 10, 1978, and all amendments thereto, and the Polk County Floodplain Management Ordinance, adopted August 3, 1983, and all amendments thereto, are hereby repealed, and any other ordinance and parts thereof which conflict with the provisions of this Ordinance herein adopted are hereby repealed to the extent of the inconsistency only.

## 2.9000 EFFECTIVE DATE

- 2.9010 This Ordinance shall be in full force and effect from and after the date of its passage and publication.

### SECTION 3 DEFINITIONS

- 3.0000 Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. For the purpose of this ordinance, the words must and shall are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally. Words used in the past tense shall include the present and future, and words used in the singular shall include the plural, and the plural the singular. The term used for shall include the terms arranged for, designed for, intended for, maintained for and occupied for.
- 3.0005 Abutting - Making contact with or separated only by a public thoroughfare, railroad, or public utility right of way.
- 3.0010 Accessory Use or Structure - Any building or improvement subordinate to, and on the same or abutting lot with a principal use or structure which, because of the nature of its use, can reasonably be located at or greater than normal structure setback from the front lot line.
- 3.0015 Addition - A physical enlargement of an existing structure.
- 3.0016 Agriculture - The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory used shall be secondary to that of the normal agricultural activities.
- 3.0017 Agriculture Structure - Any structure existing or erected and used principally for agricultural purposes, with the exception of dwelling unit.
- 3.0020 Administrative Special Use Permit - A permit that can be issued by the Zoning Administrator only if all listed criteria are met.
- 3.0030 Airport or heliport - Any land, water, or structure which is used or intended for use for the landing and take off of aircraft and any appurtenant land or structure used or intended for use for port buildings or other port structures or rights of way.
- 3.0035 Animal Manure - Poultry, livestock or other animal excreta with feed, bedding or other materials.
- 3.0040 Animal Unit - A unit of measurement. For the purpose of this Ordinance any animal not listed on the Animal Unit Equivalent chart of this

Ordinance shall be defined as the average weight of the animal divided by 1,000 pounds.

ANIMAL UNIT EQUIVALENT      Source: Minnesota Pollution Control Agency

ANIMAL	EQUIVALENT
<b>Dairy Cattle</b>	
Mature cow over 1,000 pounds	1.4 animal units
Mature cow under 1,000 pounds	1.0 animal units
Heifer	0.7 animal units
Calves (150-500 lbs)	0.2 animal units
<b>Beef Cattle</b>	
Slaughter steer or stock cow	1.0 animal units
Feeder Cattle or heifer	0.7 animal units
Cow and calf pair	1.2 animal units
Calf	0.2 animal units
<b>Swine</b>	
Over 300 pounds	0.4 animal units
Between 55 and 300 pounds	0.3 animal units
Under 55 pounds	0.05 animal units
Sheep and lambs	0.1 animal units
<b>Turkeys</b>	
Over 5 pounds	0.018 animal units
Under 5 pounds	0.005 animal units
<b>Chickens</b>	
Layer hen or broiler (liquid manure system)	0.033 animal units
Chicken over 5 pounds (dry manure system)	0.005 animal units
Chicken under 5 pounds (dry manure system)	0.003 animal units
Horses	1.0 animal units
Duck	0.01 animal units
Ostriches	0.4 animal units

3.0045      Alley - A public right-of-way which affords a secondary means of access to abutting property.

3.0047      APO - The administrative penalty order issued pursuant to Minn. Stat. §103F.48, subd. 7 and Minn. Stat. §103B.101, subd. 12a.

3.0050      Automobile Wrecking - See Junk Yards.

3.0055      Backyard Compost Site - A site used to compost food scraps, garden wastes, weeds, lawn cuttings, leaves, and prunings from a single family or household, a member of which is the owner, occupant, or lessee of the property, with the intention of using compost produced onsite.



- 3.0057 Bin Complex – The construction of two or more grain storage bins in a series that are all connected via grain auger or conveyor systems.
- 3.0060 Basement - Any area of a structure, including crawl spaces, having its floor or base subgrade below ground level on all four sides, regardless of the depth of excavation below ground level.
- 3.0065 Bed and Breakfast - Bed and Breakfast establishments are typically operated out of a private home. Just as a hotel or motel, the rooms of a bed and breakfast establishment are rented on a nightly basis. Generally there is some type of food service offered in the morning. It may range from a full scale meal to coffee and doughnuts.
- 3.0070 Billboard - See Sign, Off-Site
- 3.0075 Block - An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of a subdivision, or a combination of the above with a river or lake.
- 3.0080 Bluff - Means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet shall not be considered part of the bluff):
- (a) Part or all of the feature is located in a shoreland area;
  - (b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
  - (c) The grade of the slope from the toe of the bluff to a point 25 feet above the ordinary high water level averages 30 percent or greater; and
  - (d) The slope must drain toward the waterbody.
- 3.0085 Bluff impact zone - A bluff and land located within 20 feet from the top of a bluff.
- 3.0090 Board of Adjustment - A quasi-judicial body with powers and duties as defined in Section 3 of the Ordinance.
- 3.0095 Boathouse - A structure located within the shore impact zone designed and used for the storage of boats or boating equipment.
- 3.0097 Buffer – has the meaning provided in Minn. Stat. 103F.48, subd. 1(c).

- 3.0098 Buffer Protection Map - has the meaning provided in Minn. Stat. §103F.48, subd. 1(d) and which are available on the Department of Natural Resources website.
- 3.0100 Building - Any structure for the shelter, support or enclosure of persons, animals, chattel or property of any kind; and when separated by party walls without openings, each portion of such buildings so separated shall be deemed a separate building.
- 3.0105 Building eligibility - The eligibility to apply for and be issued a building permit for a structure under the provisions of this ordinance.
- 3.0110 Building line - A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
- 3.0115 BWSR – The Board of Water and Soil Resources.
- 3.0120 Carport - An automobile shelter having one or more open sides.
- 3.0125 Cartway - For the purpose of these regulations, a township road 66 feet or less and more than 33 feet in width, and declared and accepted as a public cartway by resolution of the Town Board of Supervisors.
- 3.0130 Cellar - That portion of the building having more than 1/2 of the floor to ceiling height below the average grade of the adjoining ground.
- 3.0135 Cemetery - Land used for the burial of the dead and dedicated for cemetery purposes including columbariums, mausoleums, and services necessary to operate.
- 3.0140 Certificate of Compliance - Feedlot - A letter from the Director, Minnesota Pollution Control Agency, or the County Feedlot Pollution Control Officer to the owner of a feedlot stating that the feedlot meets Agency requirements.
- 3.0145 Certificate of Occupancy - A certificate stating that a structure complies with all provisions of this ordinance.
- 3.0150 Change in operation (of a feedlot) - An increase beyond the permitted maximum number of animal units, an increase in the number of animal units which are confined at an unpermitted animal feedlot 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.
- 3.0155 Channel - That area adjacent to a water course, which is at an elevation of

two feet lower than the elevation of the surrounding floodplain area.

- 3.0160 Church - A building together with its accessory buildings and uses where persons regularly assemble for a religious service and which buildings and uses are maintained and controlled by an organized group for public worship.
- 3.0165 Club or lodge - A non-profit association of persons who are bona fide members paying annual dues, use of premises and/or building being restricted to members and their guests.
- 3.0170 Commercial agriculture - The principal use of a parcel of land for any one or combination of the following activities:
1. The production and storage of fruits, vegetables, grains, seeds, trees, forage, or other crops.
  2. The keeping, raising, feeding, breeding, or production of animals whether on range, pasture, or feedlot.
  3. Dairying.
  4. Incidental retail selling by the producer of products raised on the premises, provided that sufficient customer parking space is furnished off the public right-of-way.
- All structures and storage of machinery, equipment and materials associated with such activities are also included.
- 3.0175 Commercial Kennel - A place where 3 or more dogs or cats are kept for sale, breeding for sale, boarding for pay, or training for pay.
- 3.0180 Commercial planned unit developments - Are uses 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.
- 3.0182 Commercial Speech – Speech advertising a business, profession, commodity, service, and/or informational topics.
- 3.0185 Commercial use - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- 3.0190 Commission - The Polk County Planning Commission.

- 3.0195 Commissioner - The Commissioner of the Department of Natural Resources.
- 3.0200 Community Water and Sewer - Water or sewer utility systems serving a group of buildings, lots, or an area of the County, with the design and construction of such systems as approved by the County and the State of Minnesota.
- 3.0201 Composting – The controlled microbial degradation of source separated compostable material to yield a humus-like product or mulch to be used as a soil amendment.
- 3.0205 Comprehensive Plan - The document entitled Polk County Comprehensive Plan adopted pursuant to MSA 394.23 and all amendments thereto.
- 3.0210 Conditional Use - A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that: 1.) Certain conditions as detailed in the zoning ordinance exists; 2.) The use or development conforms as detailed in the zoning ordinance exist; 3.) Is compatible with the existing neighborhood.
- 3.0215 Conditional Use Permit - A permit specifically and individually granted by the County Board with conditions to assure that the use is in harmony with surrounding properties and the district in which it is located.
- 3.0217 Conflict of Interest – A situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.
- 3.0219 Contiguous – to be in actual contact with or touching along a boundary.
- 3.0220 Contractor - A person whose business is contracting work in any of the building trades, landscaping, road building, sewer installation, or who has two or more trucks used to supply a service.
- 3.0225 Contractor's Yard - A site used for the storage of equipment and supplies used by a contractor in the operation of business.
- 3.0230 Convenience Store - A business that offers consumable items for retail sale to the public. The customers are generally residents of the local area.
- 3.0235 Corrective or Protective Measure (feedlot) - 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 Minnesota Pollution Control Agency rules.

- 3.0236 County - Polk County
- 3.0240 County Board - Shall refer to the Polk County Board of Commissioners.
- 3.0242 Cultivation Farming - Farming practices that disturb root or soil structure or that impair the viability of perennial vegetation due to cutting or harvesting near the soil surface. 3.0245 Curb Elevation - The elevation of the established curb in front of a building measured at the center of such front or that elevation as stipulated to by the County Engineer.
- 3.0250 Day Care Facility - Any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to; family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity centers, day treatment programs, and day services. See also 3.0670 - Nursery, 3.0880 Residential Facility.
- 3.0255 Deck - A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- 3.0260 Demolition Debris - Solid waste resulting from the demolition of buildings, roads, and other man made structures including concrete, brick, bituminous, untreated wood, masonry, glass, trees, rock, and plastic building parts. Demolition debris does not include asbestos wastes.
- 3.0265 Demolition Debris Land Disposal Facility - A site used to dispose of demolition debris.
- 3.0268 Development – The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; or any use or extension or expansion of the use of land.
- 3.0280 District - See 3.1150
- 3.0285 Domestic Fertilizer:
- a. Animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth, or

- b. Animal manure that is used as compost, soil conditioners, or specialized plant beds.
- 3.0287 Drainage Authority - has the meaning provided in Minn. Stat. §103E.005, subd. 9.
- 3.0290 Duplex, triplex, and quad - A dwelling structure on a single lot, having two, three, or four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 3.0295 Dwelling - Any building or part thereof designed or used exclusively for residential purposes by one or more human beings.
- 3.0300 Dwelling, Single Family - A dwelling designed for or occupied exclusively by one (1) family.
- 3.0305 Dwelling, Multiple - A dwelling designed for or occupied by two (2) or more families.
- 3.0310 Dwelling site - A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 3.0315 Dwelling unit - Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- 3.0320 Earth Sheltered Structure - A structure designed and constructed so that more than 50% of the exterior surface area of the building, excluding roofs, garages or other accessory buildings, is covered with earth. Partially completed buildings shall not be considered "earth-sheltered".
- 3.0325 Easement - A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.
- 3.0327 Environmental Assessment Worksheet (EAW) – A brief document which is designed to set out the basic facts necessary to determine whether an Environmental Impact Statement (EIS) is required for a proposed action, as defined by MS 116D.04 Subd 1a Item (c).
- 3.0328 Environmental Impact Statement (EIS) – A document which describes a proposed action in detail, analyzes its significant environmental impacts, discusses alternatives, and explores methods by which adverse

environmental impacts of an action could be mitigated, as prescribed by MS 116D.04 Subd 2.

- 3.0330 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.
- 3.0335 Essential Services - Underground or overhead gas, electrical, steam, water, TV, telephone, sanitary distribution systems including poles, wires, pipes, conduits, cables and accessory equipment in conjunction therewith as are required for the protection of the public health, safety, and general welfare except buildings for serving the immediate area through installation within the public right of way or easements.
- 3.0340 Extractive use - The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- 3.0341 Failing system – any SSTS that discharges sewage to a seepage pit, cesspool, drywell or leaching pit, or any system with less than the required separation between the bottom of the distribution medium and seasonally saturated water table, as defined by either mottling or relic mottling and/or other local standard provisions. In addition, any ISTS posing an imminent public health threat as defined in MN Rules Chapter 7080.1500, subp. 4 shall be considered failing.
- 3.0345 Family - Any number of individuals living together on the premises of a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or sorority house.
- 3.0350 Farm - A tract of land, which is principally used for agricultural activities such as the production of crops, and/or animals. A farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm and meet the definition of "farm" under Minnesota's Green Acres Law M.S.A., Chapter 273.111.
- 3.0351 Farmstead - A development area designed and arranged to support farm activities. A variety of structures, storage area, and other facilities, including adjacent windbreaks and shelter belts, typically comprise a farmstead. The area may contain one or more Farm Dwellings. A livestock Feedlot may be present within the defined area of a farmstead, but for the purpose of this Ordinance, Livestock Feedlots shall not be considered to be part of a Farmstead. A farmstead has boundaries which can be approximately defined and differentiated from surrounding fields and pastures and the Administrator shall determine such boundaries as necessary.

- 3.0355 Farming - The cultivation of the soil and all activities incidental thereto; agriculture.
- 3.0360 Feedlot - A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, 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 parts.
- 3.0361 Feedlot, Existing - Operational at this time.
- 3.0362 Feedlot, Livestock - Same definition as feedlot, except for end line - The Administrator shall define the area covered by a feedlot.
- 3.0363 Feedlot, New - An animal feedlot constructed and operated on a site where no animal feedlot existed previously or where a preexisting animal feedlot has been abandoned or unused for a period of five years or more.
- 3.0370 Fence - Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary or within the required yard.
- 3.0371 Fence, Agricultural - Fences erected for agricultural purposes on property where the principal use is commercial agriculture.
- 3.0372 Fence, Residential - Fences erected on property where the principal use is residential.
- 3.0375 Field Access Drive - An access to a public road used exclusively for the movement of farm vehicles and equipment onto a field for the purposes of tilling, planting, cultivation, harvesting, or the application of pesticide, herbicide, fertilizer, or similar activity.
- 3.0380 Final Plat - A drawing or map of a subdivision, meeting all the requirements of the County and Minnesota Statutes Chapter 505.
- 3.0385 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.
- 3.0390 Flood Frequency - The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.



- 3.0395 Flood Fringe - That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Polk County, Minnesota.
- 3.0400 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.
- 3.0405 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.
- (FP1) Completely Dry Spaces - These spaces shall remain completely dry during flooding to the RFD; walls shall be impermeable to passage of water and water vapor. Permitted contents and interior finish materials are virtually unrestricted, except for high hazard type uses or human habitation. Structural components shall have the capacity of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (FP2) Essentially Dry Spaces – These spaces shall remain essentially dry during flooding to the RFD; walls shall be impermeable to water, but may pass some water vapor or seep slightly. Contents and interior finish materials are restricted when hazardous or vulnerable under these conditions. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (FP3) Spaces Intentionally Flooded with Potable Water – These spaces will be flooded internally with potable water provided by the Owner in order to maintain the building’s structural integrity by equalizing pressures on structural components during flooding to the RFD; walls shall be sufficiently impermeable to prevent the passage, infiltration or seepage of contaminated floodwaters. Contents and interior finish materials are restricted when hazardous or vulnerable under intentional flooding conditions. This is also known as wet flood proofing.
- (FP4) Spaces Flooded with Floodwater – These spaces will be flooded with floodwater (contaminated) by automatic means, or otherwise partially exposed to the unmitigated effects of the flood. Although there are minimal structural requirements to be met for walls and other structural components, contents and interior finish materials are restricted to types which are neither hazardous nor vulnerable to loss under these flooding conditions. (Most spaces in existing buildings would have this classification if provided with a suitable automatic flooding system. Carports, loading platforms, open crawl spaces, porches, and patios would generally fall into this classification. This is also known as wet flood

proofing.

- (FP5) Non-Flood Proofed Spaces – A non-flood proofed space in an existing building or structure is defined as a space which fails to meet the requirements of any of the above described classifications.
- 3.0410 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.
- 3.0415 Floor Area - The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.
- 3.0420 Floor Area Ratio - The numerical value obtained through dividing the floor area of a building or buildings by the lot area on which such building or buildings are located.
- 3.0425 Forest-land conversion - The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- 3.0427 Garage, Attached – A space attached to a dwelling, which is used for the storage or care of self-propelled vehicles. Attached garages do not count toward the accessory structure limitations, either square footage and/or number, on a given property.
- 3.0430 Garage, Detached - An accessory building used for the storage or care of self-propelled vehicles, not attached to a dwelling. Detached garages do count toward the accessory structure limitations, either square footage and/or number, on a given property.
- 3.0435 Garage, Public - Any premises, except those described as a private garage, used for the storage or care of self-propelled vehicles, and/or where any such vehicles are equipped for operation, repaired or are kept for remuneration, hire or sale.
- 3.0440 Garage Sale - Any display of used goods and/or salesman samples and sale of said goods on a property customarily used as a residence, the persons conducting the sale being residents of the property.
- 3.0445 Good (agricultural) Land - All SCS Capability Class 3 Land with the exception of those Class 3 soils types included in Prime Land.
- 3.0450 Guest cottage - A structure used as a dwelling unit that may contain habitable space in addition to those provided in the primary dwelling unit on a lot.

- 3.0451 Habitable space – Space in a structure used for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility space and similar areas, are not considered habitable space.
- 3.0455 Hardship - As used in connection with the granting of a variance means: The property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
- 3.0460 Height of building - The vertical distance as measured from the highest grade at the structure. The height of the structure should not include height of antennae, vent, chimney, satellite receiver or other similar non-structural items in nature.
- 3.0465 Highway - Any public road, thoroughfare or vehicular right-of-way with a Federal or State numerical route designation; any public thoroughfare or vehicular right-of-way with a Polk County numerical route designation.
- 3.0470 Home Occupation - Any use customarily conducted entirely within a dwelling, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.
- 3.0475 Hotel - An establishment that provides lodging and usually meals, entertainment, and various personal services for the public.
- 3.0476 Impervious Surface – A surface area that has been compacted, covered, or otherwise affected in a manner that prevents or substantially decreases its natural ability to absorb water. Examples include, but are not limited to: structures, asphalt, sidewalks, decks, patios. The Zoning Administrator may make a discretionary ruling on specific construction, technology, or products as to whether or not they qualify as pervious or impervious.
- 3.0477 Incorporated - When manure is surface mechanically applied and mechanically incorporated with 48 hours of application.
- 3.0485 Industrial use - The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

- 3.0477      Injected - When manure is mechanically injected or tilled into the soil during the manure application.      3.0490      Intensive vegetation clearing - The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- 3.0492      Interim Permit - A permit issued by the Minnesota Pollution Control Agency for the construction of a feedlot facility. The Interim Permit shall expire no later than two years from the date of issuance.
- 3.0493      Interim Use Permit - A temporary use of property until a particular date, until the occurrence of a particular event, until zoning regulations no longer permit it, or until the land occupation of the interim use changes ownership.
- 3.0495      Junk Yard - Land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other machinery.
- 3.0497      Landowner - The holder of the fee title, the holder's agents or assigns, any lessee, licensee, or operator of the real property and includes all land occupiers as defined by Minn. Stat. §103F.401, subd. 7 or any other party conducting farming activities on or exercising control over the real property.
- 3.0500      Land Reclamation - Depositing 400 cubic yards or more of material so as to elevate the grade or substantially change the topography.
- 3.0503      Liquor licensing fee - A non-refundable administrative and processing charge paid by the liquor license applicant prior to the Board hearing. Fees for liquor licenses are as follows:

LICENSE TYPE	LICENSE FEES *
ON-SALE LIQUOR	\$1200
ON & OFF-SALE	\$1700
SUNDAY LIQUOR	\$100
SET UP LICENSE	\$25
CLUB LICENSE	SET BY STATUTE
WINE LICENSE	\$100
MALT LIQUOR	\$100

OFF-SALE BEER	\$25
ON & OFF-SALE BEER	\$125
1 - 7 DAY LICENSE	\$25

*\* See Sect. 13.7062*

- 3.0505 Livestock - Any animals, including but not limited to cattle, swine, sheep, poultry, fowl, or other animals except dogs, cats and birds owned by the resident of a premises and kept as pets.
- 3.0510 Livestock Waste Lagoon - A dyked enclosure for storage of livestock waste.
- 3.0515 Loading Berth - An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, wares, materials, and merchandise.
- 3.0518 Local Water Management Authority - has the meaning provided in Minn. Stat. §103F.48, Subd. 1(g).
- 3.0520 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.
- 3.0525 Lot Area - The land area within the lot lines.
- 3.0530 Lot Area Per Family - The lot area provided for each family in a dwelling.
- 3.0535 Lot Area Per Unit - The number of square feet of lot area per dwelling unit.
- 3.0540 Lot, Corner - A lot situated at the junction of and abutting on two or more intersecting streets or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.
- 3.0545 Lot Depth - The mean horizontal distance between the mean front road and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.
- 3.0550 Lot, Double Frontage - An interior lot having frontage on two streets.
- 3.0555 Lot, Interior - A lot other than a corner lot.

- 3.0560 Lot Lines - The lines bounding a lot, as defined herein. When a lot line abuts a road, street, avenue, park or other public property, except an alley, such line shall be known as a street line, and when a lot line abuts an alley, it shall be known as an alley line.
- 3.0565 Lot Line, Rear - That boundary of a lot which is opposite the front lot line. For the purposes of this ordinance, if the rear lot line is less than 10 feet in length or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot connecting the side lot lines and parallel to the front lot line.
- 3.0570 Lot Line, Side - Any boundary of a lot which is not a front lot line or a rear lot line.
- 3.0575 Lot Line, Front - Generally the road right of way line, or in the case of riparian lots, the ordinary high water level.
- 3.0580 Lot of Record - Part of a subdivision, the plat of which has been recorded in the office of the County Recorder, or a parcel of land the deed or agreement to convey to which was recorded in the office of said Registrar of Deeds or Registrar of Titles prior to 1, September 1971.
- 3.0585 Lot, Through - A lot which has a pair of opposite lot lines abutting two substantially parallel streets and which is not a corner lot.
- 3.0590 Lot Width - The shortest distance between lot lines measured at the midpoint of the building line.
- 3.0595 Lot Width, Lakeshore - The width of the area on a lot abutting a public water between the normal high water mark and the structure.
- 3.0596 MPCA - Minnesota Pollution Control Agency
- 3.0600 Manufactured home - A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet in length, and when erected on the site is 480 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. This definition shall not include recreational camping vehicles.
- 3.0603 Manure Management Plan – the description of the manure storage, handling and application methods to be utilized for the expected amount of manure and nutrients which will be land applied in accordance with MN Rule 7020.2225 Subp 4D.

- 3.0605 Manure Storage Area - An area associated with an animal feedlot where animal manure or runoff containing animal manure is stored until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage areas for these regulations.
- 3.0606 Minimal Investment – Accessory Structure under 100 square feet in size that has a value of under \$2000.00
- 3.0610 Mining - The extraction of sand, gravel or other material from the land in the amount of 1000 cubic yards or more and removal from the site. The removal of material incidental to construction for a permitted or conditional use, or for highway or drainage purposes shall not be considered mining.
- 3.0615 Mobile Home, Trailer House - A dwelling unit designed for transportation on streets and highways after fabrication, and capable of reasonable immediate occupancy after arrival, at an appropriate site. For purposes of this Ordinance, a mobile home shall be subject to all controls and requirements stipulated for single family dwellings, unless otherwise indicated.
- 3.0620 Modular Homes - Dwelling unit structures (including experimental housing) designed in sections which may be prefabricated and/or assembled before being transported to the designated site. Such homes shall be subject to all controls and requirements stipulated for the appropriate classification of residential structure and district in this Ordinance.
- 3.0625 Motel - A building or a group of buildings used as a hotel in which the rooms are accessible from an outdoor parking area.
- 3.0630 Motor Freight Terminal - A building or area in which freight brought by motor truck or rail is assembled and/or stored for routing in state or interstate shipment by motor truck.
- 3.0635 Motor Fuel Station - A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles.
- 3.0636 Mottling/relic mottling – Mottling, as applied to soils, means a zone of chemical and reduction activity, appearing as splotchy patches of red, brown, or gray in the soil. (reference “Keys to Soil Taxonomy” 5<sup>th</sup> Edition, 1992 Soil Management Support Services, technical monograph No. 19). Mottling occurring in undeveloped areas may accurately define

the season high water table and shall be considered as a criteria for determining the type of SSTS to be installed. Mottling occurring in developed (drained) areas may be considered relic mottling and may not accurately define the seasonal saturation zone; however, relic mottling must be considered along with existing drainage, vegetation, system densities, and soil type when determining the type of SSTS to be installed.

- 3.0640 Mound On-Site Sewage System - A system where the soil treatment system is built above the natural ground level to overcome limits imposed by proximity to water table, ordinary high water level, or bedrock, or rapidly or slowly permeable soils. Mound systems must be constructed in compliance with the 2006 Minnesota Rules Chapter 7080 and Section 21 of this ordinance.
- 3.0641 NRCS - Natural Resources Conservation Service.
- 3.0643 National Pollution Discharge Elimination System (NPDES) Permit – A permit issued by the Minnesota Pollution Control Agency for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations.
- 3.0645 New Animal Feedlot - 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.
- 3.0647 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 services, and/or informational topics.
- 3.0650 Non-Conforming Structure - Any structure existing upon the effective date of this ordinance which would not conform to the applicable regulations if the structure were to be erected under provisions of this ordinance.
- 3.0655 Non-Conforming Use - Use of the land, buildings or structures existing at the time of adoption of this ordinance which does not comply with all the regulations of this ordinance or any amendments hereto governing the zoning district in which such use is located.
- 3.0660 Nonconformity - Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.



- 3.0662 Normal Water Level - 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.
- 3.0665 Noxious Matter or Materials - Material capable of causing injury to living organisms by chemical reaction or which is capable of causing detrimental effects to the physical or economic well being of individuals or animals.
- 3.0670 Nursery - A use where care is provided for pay for three or more children for periods of four hours or more per day. See also, 3.0250 Day Care Facility.
- 3.0675 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 the flow of water, either in itself or by catching or collecting debris carried by such water.
- 3.0680 Official Controls - 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 planned regulations, sanitary codes, building codes, housing codes and official maps.
- 3.0685 Official Map - A map adopted in accordance with Minnesota Statutes Section 394.361 which show existing County roads and County State Aid Highways, proposed future County roads and highways and the areas needed for widening existing County roads and highways. Any official map may also show the location of existing public land and facilities and other land needed for future public purposes including public facilities such as parks, playgrounds, schools, and other public buildings, civic centers, traveling services facilities.
- 3.0695 Open Sales Lot - Land devoted to the display of goods for sale, rent, lease, advertising or trade where such goods are not enclosed within a building.
- 3.0698 On-sale - the sale of alcoholic beverages for consumption on the premises only.
- 3.0697 Off-sale - the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

- 3.0700 Operational Area - An area of land specifically defined within a conditional use permit within which the operations allowed in the permit shall be confined.
- 3.0705 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 flowage, the ordinary high water level is the operating elevation of the normal summer pool.
- 3.0710 Overlay District - A zoning district, the regulations of which are applied in addition to or in modification of the regulations of the underlying zone.
- 3.0711 Owner - Any individual, firm, association, syndicate, partnership, 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.
- 3.0715 Parcel - A distinct, legally described piece of land that has been given a tax identification number maintained by the County.
- 3.0720 Parking Space - A suitably surfaced or permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile. For the purpose of calculating the capacity of parking lots designed to accommodate more than 4 vehicles, a parking space and associated ingress and egress shall be defined as 400 square feet of area.
- 3.0725 Party Wall - A wall which divides a structure into two or more independent buildings.
- 3.0727 Passenger Vehicle - A passenger automobile, a pickup truck, a van, and a self-propelled recreational vehicle licensed to use the public streets or highways. Passenger vehicle does not include a motorcycle, motorized bicycle, bus, school bus, a vehicle designed to operate exclusively on railroad tracks, a farm truck, or special mobile equipment. All as defined in Minnesota Statutes Chapters 168 and 169.
- 3.0730 Pastures - Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

- 3.0731           Patio – A level, landscaped, and/or surfaced area directly adjacent to a principal building at or within 3 feet of the finished grade and not covered by a permanent roof.
- 3.0735           Performance Standard - Criteria established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.
- 3.0740           Personal Services - Services provided for compensation to a person or family which can be provided as a home occupation and not requiring more than two additional parking spaces and one business sign. For example beauty salon, barber shop, real estate sales, legal services, insurance sales, accounting and tax preparation services, and the like.
- 3.0745           Person - Any individual, firm, partnership, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee or other similar representative thereof.
- 3.0750           Planned unit development - A type of development characterized by a unified site design for a number of dwelling units or dwelling sites or other structures on 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, or other structures, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- 3.0751           Planning Commission - That Commission established under Section 6 of this ordinance.
- 3.0755           Plot - A tract other than one unit of a recorded plat or subdivision and occupied and used or intended to be occupied and used as an individual site and improved or intended to be improved by the erection thereon of buildings and having a frontage upon a public road or highway or upon a traveled or used road and including as a minimum such open spaces as required under this Ordinance.
- 3.0760           Potential Pollution Hazard Feedlot - A condition which indicates a potential for pollution of the land or waters of the state including:
- a.        An animal feedlot or manure storage area whose boundaries are located within shoreland or floodplain, or are located in an area

draining directly to a sinkhole or draining to an area with shallow soils overlying a fractured or cavernous rock or are located within 100 feet of a water well, or;

- b. An animal feedlot or manure storage area whose construction or operation will allow a discharge of pollutants to surface waters of the state in excess of applicable standards during a rainstorm event of less magnitude than the 25 year-24 hour event, or will allow uncontrolled seepage of pollutants into the ground water, or will violate any applicable state rules.

- 3.0765 Preliminary Plat - A tentative drawing or map of a proposed subdivision.
- 3.0770 Premises - A lot or plot with the required front, side and rear yards for a dwelling or other uses as allowed under this Ordinance.
- 3.0775 Prime (agricultural) Land - All SCS Capability Class I & II land.
- 3.0780 Principal Use or Structure - The primary or most important use or structure located on a parcel.
- 3.0785 Principal Residence - The primary or most important house located on a lot, regardless of whether the residential use is a principal or subordinate use.
- 3.0790 Production Land - Land that has been tilled and utilized for growing of row crops, hay, forage, vegetables, fruits or similar purposes for the majority of the past ten years. Land that is entered in a state or Federal program where there is reimbursement for maintaining the land out of production shall be considered production land for the purposes of enforcing these regulations.
- 3.0795 Protected Water - Water bodies or watercourses so identified on the Public Waters Wetlands Inventory map published by the Department of Natural Resources, State of Minnesota or watercourses determined by the Zoning Administrator to have a watershed of 2 square miles or more.
- 3.0797 Public Ditch -
  - A. Any area adjacent to a roadside ditch that has been paid for with public, county, township, or state funds, or;
  - B. Legal drainage ditches that are assessed against the landowners, which are paid for with tax dollars.
- 3.0798 Public Drainage System - has the meaning given to “drainage system” in Minn. Stat. §103E.005, subd. 12.

- 3.0800 Public Hearing - Whenever the term public hearing is used in this ordinance, unless otherwise specifically redefined, it shall mean a public hearing pursuant to a notice published once in the official newspaper of the county at least 10 days before the date of such hearing, which notice shall specify the general purpose, time and place of such hearing. Any such hearing after such publication, may be continued recessed or adjourned from time to time without any further publication or notice thereof.
- 3.0805 Public Road, Street, Highway - A strip of land including bridges and other structures used for vehicular traffic and which is owned in fee simple or the public use of which is guaranteed through easement by a governmental unit and is maintained by a unit of government utilizing public funds.
- 3.0810 Public Waters - Any waters as defined in Minnesota Statutes, Section 103G.005, Subdivisions 14 and 15. A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of this Ordinance, any body of water which has the potential to support any type of recreational pursuit or water supply purpose. The term "protected water" is synonymous with the term "public water" for the purpose of this Ordinance.
- 3.0815 Publication - Notice placed in the official county newspaper stating time, location and date of meeting and description of topic.
- 3.0820 Quarter Quarter Section - A quarter of a quarter section as determined by the United States Rectangular Land Survey System. A government lot as determined by the rectangular land survey system shall be considered a quarter quarter section for purposes of this ordinance. For purposes of this ordinance, rights-of-way for public or private transportation shall not impact the completeness of a quarter quarter section.
- 3.0825 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.
- 3.0830 Recreational Camping Vehicle - Any of the following:
- a. Travel trailer - A vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "Travel Trailer" by the manufacturer of the trailer.
  - b. Pick-up coach - A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and

vacation.

- c. Motor-home - A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.
  - d. Camping trailer - A folding structure, mounted on wheels and designed for travel, recreation, and vacation use.
- 3.0835 Recycling Facility - A site used to collect and repair recyclable materials and reuse them in their original form or use them in manufacturing processes.
- 3.0840 Reduction/Recycling Facility - A lot or designated part of a lot principally used for the reduction, recycling, or preparation for recycling of vehicles, equipment, and/or used, waste, or salvaged materials. Reduction and recycling shall include dismantling, wrecking, crushing, repairing, rebuilding, sale of parts of scrap, storage, abandonment, or accumulation for sale or shipment.
- 3.0845 Refuse - Putrescible and nonputrescible solid wastes including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.
- 3.0850 Refuse Collection Service - A public or private operation engaged in solid waste collection and solid waste transportation.
- 3.0855 Regional Flood - A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
- 3.0860 Regulatory Flood Protection Elevation - An elevation one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- 3.0865 Repair Facility - Automobile, major - general repair-rebuilding, or reconditioning of engines, motor vehicles, or trailers including body work, frame work, welding, and painting services.
- 3.0870 Repair Facility - Automobile, minor - The repair or replacement of any part which does not require the removal of the engine head, transmission or differential.

- 3.0875 Repair Facility - Farm Machinery - The repair of equipment limited to equipment designed and used exclusively in agricultural operations.
- 3.0880 Residential Facility - Any facility, public or private, which for gain or otherwise regularly provides one or more persons with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to: state institutions under the control of the commissioner of public welfare, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, or schools for handicapped children.
- 3.0885 Residential planned unit development - A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.
- 3.0886 Restaurant - an establishment that its primary use is the preparation, sales, and service of food and beverages for consumption on the premises, which operates from a location for more than 21 days annually. Restaurant does not include a food cart, mobile food units or similar entities.
- 3.0887 Retail Nursery - An area where plants that are grown for transplanting or for use for budding or grafting, are offered for sale to the public on a retail basis.
- 3.0888 Riparian - Relating to or living or located on the bank of a natural watercourse or lake.
- 3.0890 Road - A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designed as a street, highway, parkway, road, avenue, boulevard, lane, service road, place or however otherwise designed. Acceptance of a road for maintenance purposes by a unit of government is not necessary for designation as a road.
- 3.0891 Road, private - An unplatted access to more than one lot or parcel, including leased or rental properties where public access is limited.
- 3.0895 Semipublic use - The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

- 3.0900 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.
- 3.0905 Service Road - A road generally parallel to, but separate from, a highway, intended to provide special traffic controls to the residences or other uses fronting on the highway.
- 3.0910 Setback - The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
- 3.0915 Subsurface Sewage treatment system - A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 21 of this ordinance.
- 3.0920 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.
- 3.0925 Shore impact zone - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.
- 3.0930 Shoreland - Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.
- 3.0935 Sign - A structure or device displayed for informational or communicative purposes which is visible to members of the public who are not on the premises on which the structure or device is located.
- 3.0937 Sign, Address – A nameplate or identification sign which does not exceed two (2) square feet in area and indicates the name of occupant or address and contains only non-commercial speech.
- 3.0939 Sign, Area- The entire area within a single continuous perimeter enclosing



the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign shall be used in computing total surface area. Each surface utilized to display a message or attract attention shall be considered a separate sign, measured separately for sign area, and included in calculating overall square footage of signs. This includes, but is not limited to, symbols, flags, pictures, wording, figures, or other graphics on windows, walls, awnings, free-standing structures, balloons, kites, or vehicles.

- 3.0940 Sign, Banner – A sign made of fabric or any non-rigid material with no enclosing framework. These signs can be mounted horizontally with ropes or cables, or can be attached directly to a wall. Banners can also be mounted vertically to a flexible or rigid pole.
- 3.9045 Sign, Digital – A sign in which an array of light-emitting diodes can be selectively activated to display information, including commercial speech.
- 3.9047 Sign, Directional – A sign erected on a property by the owner of such property solely for the purpose of guiding vehicular and pedestrian traffic, which does not contain any commercial speech.
- 3.0950 Sign, Flashing - A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. This does not include changeable copy signs, like time, date, and temperature signs.
- 3.0955 Sign, Government – A sign that is erected or maintained by a government unit, including, but not limited to, traffic signs.
- 3.0960 Sign, Illuminated - Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.
- 3.0965 Sign, Off-Site – A sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located; a billboard.
- 3.0967 Sign, On-Site - A sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such a sign is located.
- 3.0969 Sign, Surface – A face of a sign upon, against, or through which the message of the sign is displayed.
- 3.0970 Sign, Temporary – A sign displayed concurrent with a specific event or occurrence for a limited duration, after which the sign must be removed.

- 3.0972 Sign, Traffic - Signs authorized and directed by a governmental unit for the purpose of directing, controlling, or warning traffic.
- 3.0975 Significant historic site - Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- 3.0976 Small Compost Site - A compost site where food scraps, yard waste, poultry litter generated on site only if the compost produced is used on site, non-recyclable paper, and compostable materials meeting ASTM D6400 or ASTM D6868 can be composted so long as the volume of all materials on site (feedstock, composting material and curing compost) is less than 120 cubic yards. (MN Rules 7035.0300 Subp. 99a.)
- 3.0980 Solid Waste - Includes garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility, and other discarded waste materials, resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill; boulders; rock; sewage sludge; solid or dissolved material in domestic sewage; or other common pollutants in water resources such as silt; dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.
- 3.0985 Solid Waste Land Disposal Facility - A facility used to dispose of solid waste in or on the land.
- 3.0990 Stables and Riding Academies - A combination of land and structures used for boarding or keeping for pay 3 or more horses and/or for the purpose of giving instructions in riding and horsemanship for pay, training of horses other than the owner's and the breeding of racing and show stock.
- 3.0995 Steep slope - Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and

construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

- 3.1000 Stock-In Trade - A stock of goods kept on hand for sale on the premises.
- 3.1001 Stockpile of Manure - an accumulation of 50 cubic yards or more of manure in a 1000' radius for a time period of ten consecutive days or more.
- 3.1005 Storage Building, Residential - An accessory structure of 1,500 square feet or less used for the storage of residential equipment such as boats, trailers, snowmobiles, garden tractors, snow plow, lawnmowers, bicycles or other miscellaneous household equipment.
- 3.1010 Story - That portion of a building included between the surface of any floor and the surface of the next floor above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.
- 3.1015 Story, half - A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.
- 3.1020 Street - See Public Road
- 3.1023 String Test – The method of determining the required setback of a structure from the ordinary high water level in the shoreland district. This can be done when structures exist on the adjoining lots on both sides of a proposed building site and will not require a variance. This test is performed by basically drawing a straight line from the forward most part of the principal structure on one side of the proposed building site to the same on the other side of said site. In no instance will the structure be allowed to encroach into the shore impact zone.
- 3.1025 Structural Alterations - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.
- 3.1030 Structure - Any building or appurtenance, including decks, constructed, placed, or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 17.9000 of this ordinance and other similar items. Structure does not include aerial or underground utility lines, such as sewer, electric, telephone, gas lines, poles, and other supporting facilities.

- 3.1035 Subdivision - A described tract of land which is to be or has been divided into two (2) or more lots or parcels, any of which resultant parcels is less than five (5) acres in area or four hundred (400) feet in width, for the purpose of transfer of ownership, building development, sale, rent, or lease, including planned unit developments, or if a new street is involved, any division of a parcel of land. The term includes resubdivision and, where it is appropriate to the context, relates either to the process of subdividing or the land subdivided.
- 3.1037 Substandard - A parcel that does not meet width, depth, or area requirements and was created in compliance with applicable requirements at the time of the recording of the creation of the parcel.
- 3.1040 Surface water-oriented commercial use - The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.
- 3.1042 SWCD – The Soil and Water Conservation District.
- 3.1045 Temporary Structure - A structure specifically designed to be moved at will and in no way permanently attached to the ground through foundations, tie downs or similar attachments.
- 3.1050 Thoroughfare - Any street or highway designated as a collector or arterial in the Polk County Comprehensive Plan.
- 3.1055 Townhouse - Three or more single family buildings having one or more walls in common with another single family building oriented so all exits open directly to the outside.
- 3.1060 Toe of the bluff - The lower point of at least a 50-foot segment with an average slope exceeding 18 percent.
- 3.1065 Top of the bluff - The higher point of at least a 50-foot segment with an average slope exceeding 18 percent.
- 3.1066 Topographic Alterations - Grading or filling which results in a change in elevation from original natural grade of five feet or greater.
- 3.1067 Transmission Services - Above or below grade lines, wires, cables, or pipes for the transportation of energy, signals, or commodities not intended for en route consumption or distribution to individual parcels.
- 3.1070 Transfer Station - An intermediate solid waste facility at which solid waste is temporarily deposited to await transportation to another solid waste

facility.

- 3.1075 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.
- 3.1080 Use, Accessory - See 3.0010
- 3.1081 Use, Agricultural - Means that use of land for the production of food or fiber, their storage on the farm, and/or the raising thereon of animals.
- 3.1085 Use, Permitted - A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.
- 3.1090 Variance - Any modification or variation of this Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of this Ordinance would cause unnecessary hardship.
- 3.1095 Ware - Any piece or kind of goods that a store, merchant, peddler, etc. has to sell or things, usually of the same general kind, that are for sale.
- 3.1100 Warehouse - A building where wares or goods are stored as before distribution to retailers or are kept in reserve, in bond, etc.
- 3.1105 Water Influence Zone - Pertains to land area adjacent to any stream or river which contain natural scenic features such as bluffs, meadows, marsh areas and woodlands.
- 3.1110 Water-oriented accessory structure or facility - A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.
- 3.1115 Water Supply Purpose - Any use of water for domestic, commercial or agricultural purposes.
- 3.1116 Waiver - The intentional or voluntary written relinquishment of a landowner's right under this ordinance. A properly signed and notarized waiver would have the same effect as a decision by the Board of Adjustment and negate the necessity of a variance hearing under this Ordinance.

- 3.1117 Waterway - A natural or constructed channel that is shaped or graded and is established in sustainable vegetation for the stable conveyance of run-off.
- 3.1120 Wetland(s) - A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition) and refers to land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, marsh, or slough."
- 3.1125 Yard - An open space other than a court on the same lot with a building which is unoccupied and unobstructed from the ground upward.
- 3.1130 Yard, Front - A yard extending across the full width of the lot and lying between the front lot line and the front building line.
- 3.1135 Yard, Rear - A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the principal building.
- 3.1140 Yard, Side - A yard between a building and the side line of its lot.
- 3.1145 Zoning Administrator/Official - Person or persons appointed by the County Board as provided by this ordinance.
- 3.1150 Zoning District - An area or areas within the limits of the County for which the regulations and requirements governing use, lot and size of building and premises are uniform.

## SECTION 4 ADMINISTRATION AND ENFORCEMENT

### 4.1000 ZONING ADMINISTRATOR

- 4.1010 The office of the Zoning Administrator is hereby established, for which the Board of County Commissioners may appoint such employee or employees of the County as it may deem proper. The term of office of the Zoning Administrator shall be indefinite and shall terminate at the pleasure of the Board of County Commissioners.
- 4.1020 The duties of the Zoning Administrator shall include the following, and all other duties as specified elsewhere in this ordinance:
- a. Enforce and administer this Ordinance.
  - b. Issue Building Permits, Septic System Permits, and Land Alteration Permits; and maintain records thereof.
  - c. Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for conditional use permits.
  - d. Receive and forward all applications and petitions for matters to come before the Board of Adjustment, and Planning Commission.
  - e. Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for amendments to this Ordinance.
  - f. Inspect construction and development to insure that the standards of this Ordinance are being complied with.
  - g. Provide and maintain a public information bureau relative to matters arising out of this Ordinance.
  - h. Maintain the County Zoning Map as required in Section 11.2000.

### 4.2000 ENFORCEMENT

- 4.2010 The Zoning Administrator is responsible for the administration and enforcement of this ordinance.
- 4.2011 Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of

variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

4.2012 Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to this ordinance.

4.2013 If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 9 of the Ordinance.

4.2020 When any work shall have 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.

4.2030 It shall be the duty of the Zoning Administrator, County Attorney and the Sheriff of Polk County to perform such duties as may be necessary to enforce the provisions of this Ordinance.

#### 4.3000 PERMITS REQUIRED

4.3010 A permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to:

4.3011 The erection, addition, or alteration of any building, structure, or portion thereof (and including such related activities as construction of decks);

4.3012 The installation and/or alteration of sewage treatment systems;

4.3013 Those grading and filling activities not exempted by this ordinance;

4.3014 The use or change of use of a building, structure, or land;

4.3015 The change or extension of a nonconforming use;

4.3020 A permit authorizing an addition to an existing structure in shoreland areas shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 21, shall be reconstructed or replaced in accordance with the provisions of this ordinance.

4.3030 No permit may be issued for property that is in violation of any provision of this ordinance until the violation is removed, corrected or ceased.



4.3040 No permit is required for normal maintenance and repairs to structures. Normal maintenance and repairs include siding, shingling, installation of storm windows, painting, repairs to plumbing and electrical systems, insulation, installation of appliances such as heating or air conditioning units and water heaters.

4.3050 In the Shoreland Overlay District, a septic compliance inspection, as defined by MN Rules Chapter 7080 and Section 21 of this Ordinance shall be required before the granting of a permit for those uses defined in Section 4.3000.

#### 4.3100 Application for Permit

4.3110 Application for a Permit shall be made to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; the location of the foregoing in relation to a stream channel, lake, or wetland; and necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

4.3120 Any application made to the office of the Zoning Administration shall be deemed as the applicants consent to allow the Administrator (or Zoning employees) to inspect and verify that all information in the application is complete and correct; and to conduct inspections during and after construction for compliance with the permit and the Polk County Zoning Ordinance.

#### 4.3200 Fees for Permits

4.3210 Permit fees and other fees as may be established by Resolution of the Board of County Commissioners shall be collected by the Zoning Administrator for deposit with the County and credited to the general revenue fund.

#### 4.3300 Local, State and Federal Permits

4.3310 Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of

said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

- 4.3320 Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the applicant shall provide evidence to the Zoning Administrator indicating that the applicant has obtained all necessary State and Federal Permits.
- 4.3330 Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance located within any incorporated Airport Zoning District, the applicant shall provide evidence to the Zoning Administrator indicating that the applicant has obtained approval from the local airport zoning authority. Approval is by signature from a duly appointed Airport Zoning District official on the permit application.
- 4.3400 Joint Permitting. Polk County allows for joint permitting with those townships that have entered into an agreement with the Polk County Planning and Zoning Office.
- 4.3410 Joint permitting between Polk County and any participating township shall meet the following requirements:
  - 4.3411 A resolution from the participating township for joint permitting must be provided to the Polk County Zoning Office.
  - 4.3412 Polk County Planning and Zoning is responsible for the administration and enforcement of the Polk County Zoning Ordinance only.
  - 4.3413 The participating township is responsible for the administration and enforcement of those more restrictive regulations found in that Township ordinance.
  - 4.3414 The applicant must meet the requirements of both the Polk County Zoning Ordinance and the participating townships ordinance. If the applicant meets all of these requirements, the permit application will be approved.
  - 4.3415 In order for Polk County Planning and Zoning to approve a permit application, the township must first approve the application. Approval is by signature from a duly appointed township official on the permit application.
  - 4.3416 The Polk County Planning and Zoning Office shall furnish the permit applications and permits. All applicants within townships that perform joint permitting will use those applications supplied by the County. All completed applications meeting the County and Township requirements shall be issued a permit by the County.

- 4.3417           The fees for the County permit will be charged and processed by the Zoning office. The township must collect any fees charged by the township.
- 4.3500           Construction and Use to be as Provided on Applications, Plans, Permits, and Variances.
- 4.3510           Permits, Conditional Use Permits, or Certificates of Occupancy issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction shall be authorized.
- 4.3520           Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by this Ordinance.
- 4.3530           Notification to FEMA when physical changes increase or decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.
- 4.3600           Certification of Elevation
- 4.3610           For property located in the floodplain overlay district, the applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance.
- 4.3620           Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
- 4.3700           Record of Elevation
- 4.3710           The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) on all new structures and alterations or additions to existing structures in the floodplain overlay district.
- 4.3720           The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.
- 4.3800           Effectiveness of Permit

- 4.3810           The use or construction of the structure authorized by a permit must be commenced within one year of issuance or the permit becomes void.
- 4.3820           If the use authorized is discontinued for twelve (12) consecutive months the permit becomes void.
- 4.3830           If construction of a structure is not completed within two (2) years of issuance of a permit or the date specified on the permit the permit becomes void.
- 4.3840           If a permit becomes void a new application and fee must be submitted in accordance with this Ordinance to have a renewal be considered.
- 4.3900           Environmental Review Program.
- The provisions of the rules for the Environmental Review Program, Minnesota Rules 4410.0200 to 4410.7800, one copy of which is on file in the office of the County Auditor, are hereby adopted, together with the other provisions of this ordinance, as the environmental review operating procedures this County will follow in implementing the provisions of Minnesota Statutes Chapter 116D 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.
- 4.3910           Cost of Preparation and Review
- 4.3911           Information To Be Provided. The applicant for a permit for any action for which environmental documents are required either by state law or rules or by the County Board shall supply in the manner prescribed by the Polk County Planning and Zoning Administrator all unprivileged data or information reasonably requested by the County that the applicant has in his/her possession or to which he/she has reasonable access.
- 4.3912           Environmental Assessment Worksheets (EAW). The applicant for a permit for any action for which an environmental assessment worksheet (EAW) is required either by state law or rules or by the County Board shall pay all costs of preparation and review of the EAW. A private entity may be hired by Polk County to complete the EAW for the applicant. Also, upon the request of and in the manner prescribed by the Planning and Zoning Administrator, the applicant shall prepare a draft EAW and supply all information necessary to complete that document. This will then be submitted to the entity completing the EAW.

4.3913 Environmental Impact Statement (EIS). The County and the applicant for a permit for any action for which an environmental impact statement (EIS) is required shall comply with the provisions of the Minnesota Rules Governing Assessment of Costs for Environmental Impact Statements, one copy of which is on file in the office of the County Auditor, unless the applicant and the County Board provide otherwise by a written agreement.

4.3914 Agreements Concerning Cost of Preparation And Review. The applicant for a permit for any action for which an EAW or EIS is required and the County Board may in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS as provided in Minnesota Rule 4410.6100.

4.3915 Payment of Costs. No permit for any action for which as 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 pursuant to any written agreement entered into by the applicant for the permit or permits and the County Board under the provision.

1. Section and Minnesota Rule 4410.6100 authorize the County to make a written agreement with the applicant as to a different division of the costs for the preparation and review of an EIS that is provided by M.S.186D.045. Failure of the applicant to enter into a written agreement with the County detailing his/her costs of preparing the EIS and any other payments or information as required in Subdivision 5 of this ordinance shall be grounds for the County to deny a permit for the applicant's proposed project.

4.3920 Administration.

4.3921 The planning and Zoning Administrator shall be responsible for the administration of the Environmental Review Program, this ordinance, and the rules adopted by reference by this ordinance.

4.3922 The Planning and 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 Minnesota Rule 4410.4300. The Planning and Zoning Administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of the ordinance and Minnesota Rule 4410.4500 and shall notify the Planning Commission and the

County Board of Commissioners of these proposed actions.

4.3923 All EAW's and EIS's shall be prepared under the supervision of the Planning and Zoning Administrator. After publication and comment, the EAW will be reviewed by the Planning Commission and reviewed and approved by the County Board of Commissioners.

4.3924 When reviewing an EAW or EIS, the Planning and Zoning Administrator and the Planning Commission may suggest design alterations that would lessen the environmental impact of the action. The County Board of Commissioners may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.

4.3925 After the EAW is published and the comment period closed, the Planning Commission shall review the EAW and recommend to the County Board whether or not it should require the preparation of an EIS. The County shall require an EIS when it finds under Minnesota Rule 4410.2000 that an action is major and has the potential for significant environmental effects.

4.3930 Optional EAW

The County Board of Commissioners may 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 affects. 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 affects such as generating traffic and noise?
3. Are there public questions or controversy concerning the environmental affects of the proposed actions?

4.3940 Enforcement and Penalty.

4.3941 No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this ordinance are completed.

4.3942 Any person who violates any provision of this ordinance is guilty of a misdemeanor. Each day that the violation is permitted to exist

constitutes a separate offense.

4.3943 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.

## **SECTION 5 BOARD OF ADJUSTMENT**

### **5.1000 CREATION AND MEMBERSHIP**

- 5.1010 A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as provided by Minnesota Statutes, Chapter 394.
- 5.1020 Such Board shall consist of five (5) members, one member from each commissioner district, one of which shall be a member of the County Planning Commission. No elected officer of the County or employee of the Board of County Commissioners shall be a member of the Board of Adjustment.
- 5.1030 The Board's five (5) members shall be appointed by the Board of County Commissioners. The Board of County Commissioners may also appoint alternate members from the Planning Commission to the Board of Adjustment to provide a quorum if needed. The Board shall serve with compensation, and be paid necessary expenses, as established by resolution of the Board of County Commissioners.
- 5.1040 The alternate board members shall, when directed by the chair, attend all meetings of the board and participate fully in its activities but shall not vote on any issue unless authorized to do so by the chair. The chair shall authorize the alternate board member to vote on an issue when a regular member is absent, physically incapacitated, abstains because of a possible conflict of interest, or is prohibited by law from voting on that issue.
- 5.1050 Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular board member from voting thereon shall be decided by majority vote of all regular board members except the member who is being challenged.
- 5.1060 Term of office shall be for three (3) years and shall be offset so that no more than two members' terms expire in any one year. The Board of Adjustment member shall be appointed for a term coinciding with that person's term on the County Planning Commission.
- 5.1070 The Zoning Administrator shall act as secretary of the Board.
- 5.1080 The Board of County Commissioners may remove any member of the Board of Adjustment for nonperformance of duty or misconduct upon a majority vote.
- 5.1090 The Board of County Commissioners may appoint a member for a term less than three years to fill a vacancy for any unexpired term.



- 5.1100 The Board of Adjustment shall elect a chairman and vice chairman from among its members.
- 5.1110 The Board of Adjustment shall adopt rules for the transaction of its business and may exercise all of the powers conferred on such Boards by State law, and shall keep a public record of its transactions, findings and determinations.
- 5.1120 The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify.

#### 5.2000 ADMINISTRATIVE REVIEW

- 5.2010 The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.
- 5.2020 The Board shall hear and decide written appeals of the Order for noxious weed control or eradication of noxious weeds, pursuant to MS 18.83 Subd 3. Upon receiving the notice, and prior to the hearing, two (2) members of the Board shall visit the site, with the County Weed Inspector, to review the site, and form a recommendation to the Board whether to uphold the Order, deny the Order or the extent to which to modify the Order. Within 5 business days after the Board's determination on the appeal is made, the revised Order shall be sent to the applicant and County Weed Inspector.

#### 5.3000 VARIANCES

- 5.3010 The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances where practical difficulties are established, as provided for in Minnesota Statutes Chapter 394.
- 5.3020 In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that exist consistent with the criteria specified in Minnesota Statutes Chapter 394 which justify the granting of the variance.
- 5.3030 No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

- 5.3040 Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in MN Statute 216C.06, subdivision 14, when in harmony with the official controls. 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.
- 5.3050 The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
- 5.3060 For existing developments within the shoreland overlay district, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.
- 5.4000 **HEARING REQUIRED.** The Board of Adjustment shall hold a public hearing on all applications for a variance or appeal.
- 5.4100 **Time of Hearing.** An application which has been correctly filled out and completed for a variance or appeal shall be placed on the schedule for hearing at a meeting of the Board of Adjustment within sixty (60) days but after twenty (20) days of the filing of an application.
- 5.4200 **Notice Requirements.**
- 5.4210 **Published Notice.** Notice of the time, place and purpose of any public hearing shall be given by publication in a newspaper of general circulation in the township, municipality, or other area concerned, and in the official newspaper of the county, at least ten days before the hearing.
- 5.4220 **Mailed Notice.** Written notice of the time, place and purpose of any public hearing shall be mailed at least ten (10) days but not more than thirty (30) days prior to the hearing to the following:

- 5.4221 To all property owners within 500 feet of the affected property.
- 5.4222 Written notice shall also be given to the affected board of town supervisor/clerk.
- 5.4223 The municipal council of any municipality within two miles of the affected property.
- 5.4224 The Commissioner of Natural Resources if the affected property is within the Floodplain or Shoreland District.
- 5.4225 To the property owner.
- 5.4226 The owner of any lot (s) or parcel (s) of land within the separation setbacks as defined in 19.4000 of this ordinance.
- 5.4230 Property Owner Records. For the purpose of giving mailed notice, the person responsible for mailing the notice shall use the latest list of property owners available from county records. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings.
- 5.4240 Failure to Give Notice. 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 with this subdivision has been made.
- 5.4300 Hearing Procedure
- 5.4310 Applicant to Appear. The applicant or representative thereof must appear before the Board of Adjustment in order to answer questions concerning the requested variance or appeal.
- 5.4320 Additional Information. The Board of Adjustment and County staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent of and at the expense of the applicant concerning operational performance or environmental conditions in relation to all pertinent sections of the official controls.
- 5.4330 Environmental Concern. If the application for a variance, which, in the opinion of the Board of Adjustment, may result in a material adverse effect on the environment the applicant may be requested by the Board to demonstrate the nature and extent of the effect.

- 5.4335 The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- a. Variances shall not be issued by a community within any designated regulatory floodway if an increase in flood levels during the base flood discharge would result.
  - b. Variances shall 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 the victimization of the public, or conflict with the existing local laws or ordinances.
  - c. Variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 5.4340 Findings of Fact. The Board of Adjustment shall not grant a variance unless it finds the following facts at the hearing where the applicant shall present a statement and evidence in such form as the Board of Adjustment may require:
- 5.4341 That there are special circumstances or conditions affecting the land, building or use referred to in the application.
- 5.4342 That the granting of the variance will not materially, adversely affect the health or safety of person residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.
- 5.4343 That the granting of the variance would be in harmony with the general purposes and intent of the official control and is consistent with the Comprehensive Plan.
- 5.4344 That the general requirements of 5.3000-5.3060 of this Ordinance have been considered and satisfied.
- 5.4350 Conditions. In granting any adjustment or variance the Board of Adjustment shall designate such conditions in connection therewith, as will, in its opinion, be directly related to and bear a rough proportionality to the impact created by the variance.

5.4360 Final Notice of Action. The Zoning Administrator shall send written notice of the Board of Adjustment's action to the applicant, and affected units of government.

5.5000 DECISIONS

5.5010 The Board shall arrive at a decision on such appeal or Variance within 30 days of the close of the hearing.

5.5020 In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions.

5.5030 In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in Section 7, which are in conformity with the purposes of this Ordinance.

5.5040 Violations of such conditions and safeguards, when made a part of the terms under which a Variance is granted, shall be deemed a violation of this Ordinance punishable under Section 9, and shall void the variance.

5.5050 A copy of all decisions granting Variances within the Floodplain or Shoreland Overlay Districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

5.5060 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 Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

5.5070 The meeting may be continued so that additional information can be presented. The hearing shall be continued as soon as practical, but in any case shall be within thirty-five (35) days.

5.5080 The Board of Adjustment or applicant may request an extension of the decision in excess of thirty-five (35) days. Upon consent of both the Board of Adjustment and applicant, the extension may be granted.

5.6000 APPEALS & REHEARINGS

5.6010 All decisions by the board of adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons,

or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within 30 days, after receipt of notice of decision, to the district court in the county in which the land is located on questions of law and fact.

5.6050 Rehearings/Reconsiderations of Variances: The Board of Adjustment shall not conduct a rehearing or reconsider a variance within 120 days of any decision on said variance request. Said rehearing or reconsideration after 120 days shall only be conducted upon consent of the Zoning Administrator that the new request is substantially different than the original variance request. Any party aggrieved by any decision on a variance shall appeal said decision to district court.

5.7000 FLOOD INSURANCE NOTICE AND RECORD KEEPING

5.7010 The Zoning Administrator shall notify the applicant for a variance within the floodplain overlay district 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 \$25 for \$100 of insurance coverage and (2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions within the floodplain overlay district.

5.7020 The Zoning Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued within the floodplain overlay district, in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

5.8000 RECORDING OF VARIANCE

5.8010 A certified copy of any variance shall be filed with the county recorder or registrar of titles for record. The variance shall include the legal description of the property involved. The Zoning Administrator is responsible for meeting this requirement.

5.9000 EXPIRATION OF VARIANCE. If the work, as permitted by the variance, is not completed within one year after the granting of the variance, then the variance shall become null and void, unless a petition for extension of time in which to complete the work has been granted by the Board of Adjustment.

5.9100 Request for Extension. An extension of a variance shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration date of the original variance.

5.9101 The petition for extension shall state facts showing a good faith

attempt to complete the work permitted in the variance.

5.9102 There shall be no charge for the filing of such petition.

5.9103 Such petition shall be presented to the Board of Adjustment for a decision.

## SECTION 6 PLANNING COMMISSION

### 6.1000 CREATION AND MEMBERSHIP

- 6.1010 A Planning Commission is hereby established and vested with such authority as hereinafter provided and as provided by Minnesota Statutes, Chapter 394.
- 6.1020 Such Commission shall consist of eleven (11) members. The membership shall include one County Commissioner, one member from each Commissioner District, one member from the Polk County Township Officers Association, one member from the Maple Lake Improvement District, one member from the Union-Lake Sarah Development Association, the Mayor of East Grand Forks, and the Mayor of Crookston.
- 6.1030 The two mayors shall be appointed for terms coinciding with their term as mayor. The remaining nine (9) members shall be appointed by the Board of County Commissioners for three (3) year terms except that the County Commissioner may be appointed for a one (1) year term. The terms of office shall be offset so that no more than four members terms expire in any one year.
- 6.1040 No member of the Commission 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 the county for urban and urban related purposes.
- 6.1050 The Commission shall serve with compensation, and be paid necessary expenses as established by resolution of the Board of County Commissioners.
- 6.1060 The Board of County Commissioners may appoint any county officer or employee as an ex officio member as deemed necessary. Ex officio members shall serve without compensation but may be paid necessary expenses.
- 6.1070 The Board of County Commissioners may remove any member of the Planning Commission for nonperformance of duty or misconduct by majority vote.
- 6.1080 The Board of County Commissioners may appoint a member for a term less than three years to fill a vacancy for any unexpired term.

### 6.2000 DUTIES

- 6.2010 The Planning Commission shall elect a chair and vice chair from among



its members.

- 6.2020 The Planning Commission shall adopt rules for the conduct of business and may exercise all of the powers and duties conferred on such Commissions by state law, this ordinance, and as assigned by the Board of County Commissioners.
- 6.2030 The Commission shall hold meetings at the call of the chairman and at such other times as the Commission in its rules of procedure may specify.
- 6.2040 The Commission shall cooperate with the Zoning Administrator and other employees of the county in preparing and recommending to the Board of County Commissioners for adoption a comprehensive plan and recommendations for plan execution in the form of official controls and other measures, and amendments thereto.
- 6.2050 The Commission shall review the comprehensive plan and official controls annually and recommend to the Board of County Commissioners amendments as needed. The Commission shall report its recommendations in writing to the Board of County Commissioners at least every five years.
- 6.2060 The Commission shall hold public hearings, review, and report thereon to the Board of County Commissioners their recommendations on all applications for conditional use permits, planned unit developments, and plans for subdivisions of land.
- 6.2070 The Planning Commission shall review any comprehensive plans and official controls and any plans for public land acquisition and development sent to the County for that purpose by any local unit of government or any state or federal agency and shall report thereon in writing to the board.
- 6.2080 The Board of County Commissioners may assign additional duties and responsibilities to the Planning Commission as it deems necessary.

## **SECTION 7 CONDITIONAL & INTERIM USE PERMITS**

### **7.1000      CONDITIONAL USE PERMITS**

7.1010      Conditional use permits may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this Ordinance.

### **7.2000      APPLICATION**

7.2010      Applications for conditional use permits shall be submitted to the Zoning Administrator on forms supplied by the Zoning Administrator for that purpose.

7.2020      The application must include sufficient information to allow the Planning Commission to find that the standards and criteria stated in this ordinance for the granting of such permit can or can not be satisfied, including but not limited to a description of the proposed use, site plans, and surrounding land use. If the property is located within the floodplain overlay district the application must also include:

7.2021      Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.

7.2022      Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

### **7.3000      ADMINISTRATIVE PROCEDURE**

7.3010      Upon receipt of an application the Zoning Administrator shall review the application as to form, completeness, and compliance with the provisions of this ordinance. If found to be proper the Zoning Administrator shall submit the application to the Planning Commission.

7.3020      If the property is located in the floodplain overlay district the Zoning Administrator may transmit one copy of the application to a designated engineer or other expert person or agency for technical assistance, when deemed necessary by the Zoning Administrator. Technical assistance may include, but not limited to: evaluate the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the proposed use, the potential for impact on the surrounding land uses, the adequacy of the plans for protection, and other technical matters. The expenses for said technical assistance shall be the responsibility of the

applicant, and shall be paid in full prior to any conditional use permit decision.

7.4000 HEARING REQUIRED. The Planning Commission shall hold a public hearing on applications for a Conditional Use Permit unless waived by the Board of County Commissioners.

7.4100 Time of hearing. An application which has been correctly filled out and completed for a Conditional Use Permit shall be placed on the schedule for hearing at a meeting of the Planning Commission within sixty (60) days but after twenty (20) days of the filing of an application.

7.4200 NOTIFICATION AND PUBLIC HEARING

7.4210 Upon receipt in proper form of the application and other requested material, the Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission.

7.4220 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 paper of the County.

7.4230 All property owners within one-quarter mile or the ten (10) properties nearest to the affected property, with greatest number of owners, shall be notified by U.S. Mail as to the time and place of the public hearing. Whichever would provide notice to the written notice shall be given to the affected town board and the municipal council of any municipality within two miles of the affected property and the property owners.

7.4240 If the property is within the shoreland or floodplain overlay districts notice shall be served by mail to the Commissioner of Natural Resources including a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

7.4250 For feedlots, the owner of any lot (s) or parcel (s) of land within the separation setbacks as defined in 19.4000 of this ordinance.

7.5000 PROCEDURE

7.5010 At the time and place of the public hearing the chair of the Planning Commission shall call the hearing to order. The Commission shall then receive testimony so as to obtain sufficient information on which to base their decision.

- 7.5100 In all cases the Commission shall consider whether:
- 7.5101 The proposed use is a conditional use expressly designated in the ordinance; and,
  - 7.5102 The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity; and,
  - 7.5103 The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area; and,
  - 7.5104 Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided; and,
  - 7.5105 Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and,
  - 7.5106 Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- 7.5200 Additionally, if the property is located in the SHORELAND OVERLAY DISTRICT a thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
- 7.5201 The prevention of soil erosion or other possible pollution of public waters, both during and after construction; and,
  - 7.5202 The visibility of structures and other facilities as viewed from public waters is limited; and,
  - 7.5203 The site is adequate for water supply and on-site sewage treatment; and,
  - 7.5204 The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- 7.5300 And, additionally, if the property is located in the FLOODPLAIN OVERLAY DISTRICT the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard based upon the technical evaluation of the designated engineer or expert. The Planning Commission shall also consider:

- 7.5301 The danger to life and property due to increased flood heights or velocities caused by encroachments.
- 7.5302 The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
- 7.5303 The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- 7.5304 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- 7.5305 The importance of the services provided by the proposed facility to the community.
- 7.5306 The requirements of the facility for a waterfront location.
- 7.5307 The availability of alternative locations not subject to flooding for the proposed use.
- 7.5308 The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- 7.5309 The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- 7.5310 The safety of access to the property in times of flood for ordinary and emergency vehicles.
- 7.5311 The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- 7.5312 Such other factors which are relevant to the purposes of this Ordinance.
- 7.5400 Conditions Attached to Conditional Use Permits
  - 7.5410 The Planning Commission, upon consideration of the criteria listed above and the purposes of this ordinance, shall recommend the attachment of such conditions to the conditional use permit as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
    - 7.5411 Increased setbacks from the ordinary high water level;
    - 7.5412 Limitations on the natural vegetation to be removed or the

requirement that additional vegetation be planted; and

- 7.5413 Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- 7.5414 Modification of waste treatment and water supply facilities.
- 7.5415 Limitations on period of use, occupancy, and operation.
- 7.5416 Imposition of operational controls, sureties, and deed restrictions.
- 7.5417 Requirements for construction of channel modification compensatory storage, dikes, levees, and other protective measures.
- 7.5418 Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

7.5500 Conclusion of Hearing

- 7.5510 When all available evidence has been submitted to the Planning Commission, the Commission must determine whether it has received sufficient information to make an appropriate recommendation to the Board of County Commissioners. If so, the hearing shall be closed and the Commission shall arrive at a recommendation within fourteen days.
- 7.5520 The meeting may be continued so that additional information can be presented. The hearing shall be continued as soon as practical but in any case shall be within 35 days.
- 7.5530 The Planning Commission or applicant may request an extension of the decision in excess of thirty (30) days. Upon consent of both the Planning Commission and applicant, the extension may be granted.

7.5600 Report to the County Board

- 7.5610 After the conclusion of hearing for an application for a conditional use, the County Planning Commission shall report to the Board of County Commissioners its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection

of the public interest, at the next available meeting of the Board of County Commissioners.

7.5620 Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant or deny a conditional use permit.

7.5700 Decisions

7.5710 The Board of County Commissioners shall arrive at a decision on a Conditional Use within 30 days.

7.5715 The Board of County Commissioners or applicant may request an extension of decision in excess of thirty (30) days. Upon consent of both parties, the extension may be granted.

7.5720 In granting a Conditional Use Permit the Board of County Commissioners shall prescribe appropriate conditions and safeguards, which are in conformity with the intent of this Ordinance.

7.5730 Violation of any conditions, limitations, restrictions, or other safeguards, written into the terms of approval under which a Conditional Use Permit has been granted, shall be deemed a violation of this Ordinance punishable as specified in Section 9.

7.5740 A copy of all decisions granting Conditional Use Permits for property within the floodplain or shoreland overlay districts shall be forwarded by mail to the Commissioner of Natural Resources, or its local representative, within ten (10) days of such action.

7.5750 Notification of Action. The Zoning Administrator shall send written notice of the Board of County Commissioners decision to the applicant, and affected units of government.

7.5800 Recording of Permit

7.5810 A certified copy of any conditional use permit shall be filed with the county recorder or registrar of titles for record. The conditional use permit shall include the legal description of the property involved. The Zoning Administrator is responsible for meeting this requirement.

7.5900 Effectiveness of Permit

7.5910 A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed, provided that nothing in this section

shall prevent the board from enacting or amending official controls to change the status of conditional uses. The conditional use permit shall become void one year after it was granted unless used.

7.6000 INTERIM USE PERMITS

7.6010 Interim use permits may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this Ordinance.

7.6020 Any IUP issued under this Ordinance is granted solely to the applicant and/ or the business entity named in the application, and for the premises named in the IUP application. No IUP of any sort granted pursuant to this Ordinance is transferable to any other person or premises. If a change of ownership, control, or location of any licensed premises occurs, whether pursuant to move, sale, transfer, assignment, or otherwise, the owner or proposed new owner must complete a new application subject to approval pursuant to this Ordinance.

7.6030 Interim use permits shall be valid for a period of time specified by the conditions of the IUP. IUP's shall expire after the specified period of time in the conditions, unless renewed before the expiration date. Once a IUP is renewed it will have to be renewed annually to prevent expiration of the IUP.

7.7000 APPLICATION

7.7010 Applications for interim use permits shall be submitted to the Zoning Administrator on forms supplied by the Zoning Administrator for that purpose.

7.7020 The application must include sufficient information to allow the Zoning Administrator to find that the standards and criteria stated in this ordinance for the granting of such permit can or can't be satisfied, including but not limited to a description of the proposed use, site plans, and surrounding land use. If the property is located within the floodplain overlay district the application must also include:

7.7021 Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.

7.7022 Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.



7.8000 ADMINISTRATIVE PROCEDURE

- 7.8010 Upon receipt of an application the Zoning Administrator shall review the application as to form, completeness, and compliance with the provisions of this ordinance. If found to be proper the Zoning Administrator shall process the application.
- 7.8020 If non-compliance is determined, the applicant shall be notified of the appropriate action to be taken.
- 7.8030 If it is determined that the application complies with the ordinance, the application shall be referred to the Township Board, adjoining property owners, and applicable affected units of government or agencies, for review and comment.
- 7.8040 If the property is located in the floodplain overlay district the Zoning Administrator may transmit one copy of the application to a designated engineer or other expert person or agency for technical assistance, when deemed necessary by the Zoning Administrator. Technical assistance may include, but not limited to: evaluate the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the proposed use, the potential for impact on the surrounding land uses, the adequacy of the plans for protection, and other technical matters. The expenses for said technical assistance shall be the responsibility of the applicant, and shall be paid in full prior to any interim use permit decision.
- 7.8050 Notified parties will have 30 days from the date the notification is sent to comment on the interim use permit application.
- 7.8060 If no adverse comments are received from the notified parties the Administrator may make a recommendation to the County Board of Commissioners.
- 7.8070 Upon either a negative comment or a specific request of the Township, or adverse comment from any other notified party, shall initiate the application to be considered at the next appropriate Planning Commission meeting as an application for a Interim Use Permit, unless waived by the Board of County Commissioners.
- 7.8080 Any Interim Use Permit to be acted upon by the Planning Commission shall be processed in accordance with the proceeding of section 7.5000 (CUP), and shall endure the CUP permit fees.

7.9000 REVIEW PROCEDURE

- 7.9010 In all cases the Zoning Administrator shall consider whether:

- 7.9011 The proposed use is a interim use expressly designated in the ordinance; and,
- 7.9012 The proposed interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity; and,
- 7.9013 The establishment of the interim use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area; and,
- 7.9014 Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided; and,
- 7.9015 Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and,
- 7.9016 Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- 7.9020 Additionally, if the property is located in the SHORELAND OVERLAY DISTRICT a thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
- 7.9021 The prevention of soil erosion or other possible pollution of public waters, both during and after construction; and,
- 7.9022 The visibility of structures and other facilities as viewed from public waters is limited; and,
- 7.9023 The site is adequate for water supply and on-site sewage treatment; and,
- 7.9024 The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- 7.9030 And, additionally, if the property is located in the FLOODPLAIN OVERLAY DISTRICT the Zoning Administrator or the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard based upon the technical evaluation of the designated engineer or expert.

The Zoning Administrator or Planning Commission shall also consider:

- 7.9031 The danger to life and property due to increased flood heights or velocities caused by encroachments.
- 7.9032 The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
- 7.9033 The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- 7.9034 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- 7.9035 The importance of the services provided by the proposed facility to the community.
- 7.9036 The requirements of the facility for a waterfront location.
- 7.9037 The availability of alternative locations not subject to flooding for the proposed use.
- 7.9038 The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- 7.9039 The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- 7.9040 The safety of access to the property in times of flood for ordinary and emergency vehicles.
- 7.9041 The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- 7.9042 Such other factors which are relevant to the purposes of this Ordinance.

7.9100 Conditions Attached to Interim Use Permits

- 7.9110 The Zoning Administrator or the Planning Commission, upon consideration of the criteria listed above and the purposes of this ordinance, shall recommend the attachment of such conditions to the interim use permit as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the

following:

- 7.9111 Increased setbacks from the ordinary high water level;
  - 7.9112 Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
  - 7.9113 Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
  - 7.9114 Modification of waste treatment and water supply facilities.
  - 7.9115 Limitations on period of use, occupancy, and operation.
  - 7.9116 Imposition of operational controls, sureties, and deed restrictions.
  - 7.9117 Requirements for construction of channel modification compensatory storage, dikes, levees, and other protective measures.
  - 7.9118 Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.
- 7.9200 Conclusion
- 7.9210 When all available or requested information and documentation has been submitted to the Zoning Administrator, the application shall be considered complete.
- 7.9300 Report to the County Board
- 7.9310 The Zoning Administrator shall review the completed application and formulate an appropriate recommendation in the form of a report to the Board of County Commissioners. The recommendation shall include any stipulation of additional conditions deemed necessary for the protection of the public interest.
  - 7.9320 Upon receipt of the report, the Board of County Commissioners shall hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant or deny a interim use permit in a timely manner not to exceed 45 days.

7.9400 Decisions

- 7.9410 The Board of County Commissioners shall arrive at a decision on a Interim Use within 45 days.
- 7.9415 The Board of County Commissioners or applicant may request an extension of decision in excess of thirty (30) days. Upon consent of both parties, the extension may be granted.
- 7.9420 In granting a Interim Use Permit the Board of County Commissioners shall prescribe appropriate conditions and safeguards, which are in conformity with the intent of this Ordinance.
- 7.9430 Violation of any conditions, limitations, restrictions, or other safeguards, written into the terms of approval under which an Interim Use Permit has been granted, shall be deemed a violation of this Ordinance punishable as specified in Section 9.
- 7.9440 A copy of all decisions granting Interim Use Permits for property within the floodplain or shoreland overlay districts shall be forwarded by mail to the Commissioner of Natural Resources, or its local representative, within ten (10) days of such action.
- 7.9450 Notification of Action. The Zoning Administrator shall send written notice of the Board of County Commissioners decision to the applicant, and affected units of government.

7.9500 Recording of Permit

- 7.9510 A certified copy of any interim use permit shall be filed with the county recorder or registrar of titles for record. The IUP shall include the legal description of the property involved. The Zoning Administrator is responsible for meeting this requirement.

7.9600 Effectiveness of Permit

- 7.9610 The IUP shall expire with a change of ownership, or unless otherwise required by the IUP's conditions as determined by the County Board. The IUP shall expire if the approved use is inactive for one (1) year or longer as determined by the Zoning Administrator. Interim use permits shall expire after the period of time specified by the conditions of the IUP.

## SECTION 8 NONCONFORMING USES

### 8.1000 CONTINUATION OF NONCONFORMING USES

8.1100 A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

- 8.1101 No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity;
- 8.1102 In the Floodplain overlay district any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood-proofing techniques (i.e., FP-1 thru FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in 8.1103 below;
- 8.1103 The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the Polk County Assessors value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the initial official controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the Polk County Assessors value of the structure, then the structure must meet the standards of this Ordinance for new structures;
- 8.1104 If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.
- 8.1105 If any nonconforming use or structure is destroyed by any means, including floods, tornadoes, wind storms, or other acts of god, to an extent of 50 percent or more of its value, as determined by the Polk County Assessors office, at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

8.2000            EXISTING NONCONFORMITIES

- 8.2010            Lots of record in the office of the county recorder on the date of enactment of official controls that do not meet the lot size requirements of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, the impervious surface coverage does not exceed 25 percent of the lot, and sewage treatment and setback requirements of this ordinance are met.
- 8.2020            If necessary variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a nonconforming lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- 8.2030            In a group of two or more contiguous lots of record under the same ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
- a.    The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the zoning district;
  - b.    The lot must be suitable for the installation of a Type 1 sewage treatment system consistent with Section 21 of this ordinance.
  - c.    Impervious surface coverage must not exceed 25 percent of each lot; and
  - d.    Development of the lot must be consistent with the comprehensive plan.
- 8.2040            A lot subject to Section 8.2030 not meeting the requirements of Section 8.2030 must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
- 8.2050            Notwithstanding Section 8.2030, contiguous nonconforming lots of record under common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with Section 21 of this ordinance.

8.2060 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 requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

8.3000 ADDITIONS/EXPANSIONS TO NONCONFORMING STRUCTURES

8.3010 All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance. Any deviation from these requirements must be authorized by a variance.

8.3020 In the shoreland overlay district 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 and standards are met:

8.3021 The structure existed on the date the structure setbacks were established;

8.3022 A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

8.3023 The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

8.3024 The deck is constructed primarily of wood, and is not roofed or screened.



## SECTION 9 VIOLATIONS

### 9.1000 RESPONSIBILITY OF ZONING ADMINISTRATOR

- 9.1100 The Zoning Administrator is responsible for the administration and enforcement of this ordinance.
- 9.1101 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.
- 9.1102 If the violation exists in the floodplain overlay district, 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 plan of action to correct the violation to the degree possible.
- 9.1103 The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls.
- 9.1104 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.
- 9.1105 If the construction or development is already completed, then the Zoning Administrator shall (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, and (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.
- 9.1106 If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly.
- 9.1107 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.
- 9.1108 Notification of Action. The Zoning Administrator shall notify affected units of government of the violation and the actions taken to compel compliance with the provisions of the ordinance.

9.2000 LEGAL ACTION

9.2100 Nothing herein contained shall prevent Polk County from taking such other lawful action as is necessary to prevent or remedy any violation.

9.2101 In responding to a suspected ordinance violation, the Zoning Administrator and Board of Commissioners 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.

9.3000 VIOLATION A MISDEMEANOR

9.3010 Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

9.3020 Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity.

9.3030 Prosecution by County Attorney. The County Attorney shall have jurisdiction for prosecution of any violation of this ordinance.

## SECTION 10 ORDINANCE AMENDMENT

### 10.1000 AMENDMENT OF ZONING ORDINANCE

10.1010 The provisions of this Ordinance may be amended by the Board of County Commissioners of Polk County.

### 10.2000 PROCEDURE:

10.2100 Initiation for Amendment

10.2101 A request for amendment, rezoning, extension or addition to the regulations of this Ordinance can be initiated by the following:

- a. An application from a resident or residents or property owner or owners within the jurisdiction of this Ordinance.
- b. A recommendation of the Planning Commission.
- c. Action by the County Board.

### 10.2200 Pre-Application Meeting

10.2201 An applicant for an amendment to the Zoning Ordinance may request a meeting with the Planning Commission prior to making a formal application.

10.2202 The applicant should make available to the staff and the Planning Commission sufficient information to present a general idea of the proposal.

10.2203 The applicant may request that the meeting be placed on the Commission agenda any time before the agenda is mailed to the members of the Planning Commission.

### 10.2300 Application

10.2310 An application for amendment or rezoning shall be filed with the Zoning Administrator and be accompanied with such filing fee as may be established by the County Board.

10.2320 Required information accompanying application to change the wording of this Ordinance shall contain the following:

- 10.2321 Stated reason for change requested.

- 10.2322 Statement of compatibility to the County Comprehensive Plan.
- 10.2323 Text of portion of the existing ordinance to be amended.
- 10.2324 Proposed amended text and statements outlining any other effects that the amendment may have on other areas of this Ordinance.
- 10.2325 Additional information as may be requested by the Planning Commission or Zoning staff.
- 10.2330 Required information accompanying applications to change district boundaries shall contain the following:
  - 10.2331 The names and addresses of the petitioner or petitioners and their signatures to the petition.
  - 10.2332 A specific description of the area proposed to be rezoned, and the names and addresses of all owners of property within such area, and a description of the property owned by each.
  - 10.2333 The present district classification of the area and the proposed district classification.
  - 10.2334 Proposed use of land (a statement of the type, extent, area, etc.).
  - 10.2335 Map and plot plan or survey.
  - 10.2336 Compatibility with the Comprehensive Plan of Polk County (a statement of conditions warranting changes in zoning).
  - 10.2337 A legal description of the property(ies) to be rezoned.
  - 10.2338 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 (½) mile in unincorporated areas and drawn to scale.
  - 10.2339 Additional information as may be requested by the Planning Commission or County staff.
- 10.2400 Hearing Required
  - 10.2410 The Planning Commission shall hold a public hearing on all applications filed under this subdivision.

10.2420 Time of Hearing

10.2421 An application for amendment or rezoning shall be placed on the schedule for hearing at the next meeting of the Planning Commission within sixty (60) days but after twenty-one (21) days of the filing of an application.

10.2430 Notice Requirements

10.2431 Publish Notice. Notice of the time, place and purpose of any public hearing shall be given by publication in all newspapers published in the County, at least ten (10) days before the hearing.

10.2432 Mail Notice. Written notice of the time, place and purpose of any public hearing shall be mailed at least ten (10) days but not more than thirty (30) days prior to the hearing to the following:

- a. The governing bodies of all towns and municipalities within the County.
- b. Where the action will affect specific properties notice will be mailed to:
  - 1. Owners of all affected property.
  - 2. Incorporated areas: All property owners within 500 feet of the affected property.
  - 3. In unincorporated areas: All property owners within one-half mile of the affected property.
- c. The Commissioner of Natural Resources shall be notified of amendment and rezoning applications affecting Floodplain and Shoreland Overlay Districts.

10.2433 Property Owner Records. For the purpose of giving mailed notice, the person responsible for mailing the notice shall use the latest list of property owners available from Polk County records. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings.

10.2434 Failure to Give Notice. 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 with this subdivision has been made.

10.2440 Hearing Procedure:

10.2441 Applicant to Appear. The applicant or representative thereof should appear before the Planning Commission in order to answer questions concerning the requested amendment.

10.2442 Additional Information. The Planning Commission and County staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational performance conditions in relation to all pertinent sections of the official controls.

10.2443 Outside Review. All proposed changes in zoning use, district boundaries or amendments to this Ordinance, when requested by the Planning Commission, shall be reviewed by the Polk County Soil and Water Conservation Districts, County Surveyor, County Highway Engineer, County Board of Health to determine the adequacy to accommodate the change requested.

10.2444 Environmental Concern. The applicant for an amendment, which, in the opinion of the Planning Commission, may result in a material adverse effect on the environment may be requested by the Commission to demonstrate the nature and extent of the effect.

10.2445 Findings of Fact. Prior to submitting its recommendation to the County Board the Planning Commission shall support its recommendations by making findings of fact based on evidence from all sources.

10.2450 Transmittal to Board. Following the closing of the public hearing, the Planning Commission shall request the Zoning Officer to report its findings and recommendations on the proposed amendment or rezoning to the County Board at its next regularly scheduled Board meeting.

10.2500 Special Conditions in Floodplain

10.2510 Floodplain Designation. Floodplain designation on zoning maps shall not be removed from floodplain areas unless it can be shown that the designation is in error. Special exceptions to this rule may

be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are protected adequately for the intended uses.

10.2520 Approval Prior to Adoption. All amendments to sections applicable to Floodway and Flood Fringe Districts including amendments to the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map also require prior approval by the Federal Emergency Management Agency. The Commissioner of Natural Resources and the Federal Emergency Management Agency must be given 10 days written notice of all hearings to consider an amendment to this ordinance (said notice shall include a draft of the ordinance amendment under consideration).

10.2600 County Board Action. The following shall be the procedure for amending this ordinance or rezoning:

10.2610 Time for Action. The County Board shall take action on the proposed amendment within sixty (60) days following receipt of the application by the Zoning Administrator. If no report or recommendation is transmitted by the Planning Commission within sixty (60) days after the hearing, the County Board may take action without such recommendation.

10.2620 Findings of Fact. Before adopting an ordinance to amend the Zoning Ordinance or denying the petition for amendment the Board shall examine the hearing record and any other relevant information or reports. The Board shall adopt a resolution stating its reasons for approval or denial. To approve an application the Board shall find as follows:

- a. The amendment is in conformance with the Comprehensive Plan.
- b. The amendment is not in conflict with any other official controls.
- c. The amendment will not be detrimental to the health, safety or general welfare.

10.2630 Action. Amendments to the Ordinance shall be adopted by ordinance. Changes in district boundaries shall be by ordinance. Following passage of the ordinance, the Zoning Administrator

shall make appropriate changes on the "Zoning Map of Polk County, Minnesota".

- 10.2700 Notice to Applicant. The Zoning Administrator shall send written notice of the County Board action to the applicant.
- 10.2800 File with Commissioner of Natural Resources. A copy of all amendments affecting Floodplain or Shoreland Districts shall be forwarded to the Commissioner of the Department of Natural Resources within ten (10) days of such action.
- 10.2900 Effect of Denial. In the event the proposed change in the zoning use district boundaries is denied by the County Board, no request for the same district change on the same property will be considered for at least one (1) year.



## SECTION 11 ZONING DISTRICTS & MAPS

### 11.1000 DISTRICT TITLES

11.1100 For the purpose of this ordinance several zoning districts shall be created within the area of Polk County and in effect outside the corporate limits of incorporated areas. These districts shall carry the title as follows:

"AG" General Agriculture District

"C" Commercial District

"I" Industrial District

"V" Village District

"FP" Floodplain Overlay District

"SL" Shoreland Overlay District

### 11.2000 MAPS

11.2100 The original and copies of the Official Zoning Map may be kept and distributed in electronic format. The Official Zoning Map is properly filed in the Tax Payer Service Center Office of Polk County. Said map may be amended, from time to time, by approval of the County Board.

11.2200 Said map and all the notations, references and other information shown thereon and amendments thereto, shall have the same force and effect as if fully set down herein and are hereby made part of this ordinance by reference and incorporated herein as if set forth herein at length.

11.2300 The Flood Insurance Study for the County of Polk prepared by the Federal Emergency Management Agency, dated February 15, 1983 and the water surface profiles and flood boundary and floodway maps and flood insurance rate maps therein, are attached to and made part of the official zoning map and this ordinance.

### 11.3000 BOUNDARIES

11.3100 District Boundaries as indicated on said zoning map follow property lines, the center line of streets and alleys projected, the center line of water courses or the corporate limit lines, all as they exist upon the effective date of this ordinance or as hereafter amended. If the district boundary lines do not follow any of the above described lines, the district boundary lines are established by scaling the distances as drawn on the zoning map. District boundary lines for the shoreland and floodplain districts are exempt from this subsection but are subject to Sections 17 and 18.

11.3200 Rules for Interpretation of Floodplain Overlay District Boundaries. The

boundaries of the floodplain district shall be determined by scaling distances on the National Flood Insurance Program Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, dated February 15, 1983 and all amendments thereto. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the map as, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the Planning Commission shall make the necessary interpretation based on elevations on the applicable water surface profile. The person contesting the location of the district boundaries shall be given a reasonable opportunity to present his case to the Board and to submit technical evidence if he so desires.

## SECTION 12 GENERAL REGULATIONS

Permits are not required for the uses, signs, or structures specifically allowed in this section, unless stated otherwise.

### 12.1000 SIGNS, LIGHTS AND DEVICES

12.1010 Purpose: This Section 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. This Section is not intended to and does not restrict, limit, or control the content or message of signs.

#### 12.1020 General Standards

12.1021 All signs, other than government signs, are prohibited within public rights-of-way and easements or on any other public property, unless specifically permitted herein.

12.1022 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.

12.1023 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.

12.1024 No sign shall be permitted that obstructs any window, door, fire escape, stairway, or opening intended to provide light, air or access to any building or structure.

12.1025 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 setback ten (10) feet from adjacent property lines.

12.1026 No sign shall be erected that imitates any official marker or government sign or that otherwise constitutes a traffic hazard.

12.1030 The following signs are permitted in all zoning districts:

- 12.1031 Subject to Minnesota Statute Section 211B.045, or successor statute, 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.
- 12.1032 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 noncommercial speech.
- 12.1033 No Trespassing Signs posted in accordance with Minnesota Statutes Section 97B.001, or successor statute.
- 12.1034 Government Signs.
- 12.1035 Address Signs.
- 12.1036 One double faced sign, not to exceed thirty-two (32) square feet in area shall be allowed for each street entrance to a development or municipality.
- 12.1037 One double faced sign, not to exceed thirty-two (32) square feet in area shall be allowed for each permitted non-residential use or use by conditional use permit. No sign shall exceed ten (10) feet in height above the average grade level.
- 12.1038 One double faced sign for each parcel not exceeding eight (8) square feet in area per surface that contains only non-commercial speech.
- 12.1039 On tillable farmland, up to twenty (20) signs not exceeding three (3) square feet per surface, with no more than two surfaces per sign, may be displayed per one hundred (100) feet of frontage along a public road no closer than two (2) feet apart when visible from the public right-of-way.
- 12.1040 Temporary signs displayed on a parcel during the time the parcel is for sale, available for lease, or under construction are subject to the following criteria:
1. Signs shall not exceed a total combined area of thirty-two (32) square feet.
  2. Such signs shall be removed no more than 7 days following the

sale, leasing, or completion of construction.

12.1041 Temporary signs for one-time or special events subject to the following criteria:

1. Banner signs may be displayed for a maximum period of 30 days concurrent with the event and must be removed no more than 7 days after the final date of the event.
2. Free-standing or portable signs that do not exceed thirty-two (32) square feet in sign area may be displayed for not more than 3 days concurrent with the event.
3. The occupant of the property on which the temporary sign is displayed is responsible for removal of such sign.

12.1042 Directional signs that do not exceed eight (8) square feet in total area per sign.

12.1050 The following sign regulations apply in the Agricultural, Village, and Shoreland Districts:

12.1051 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 and the maximum height shall be fifteen (15) feet above the average grade level.

12.1052 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.

12.1060 The following sign regulations apply in the Commercial and Industrial Districts:

12.1061 Signs in excess of thirty-two (32) square feet may be permitted as an accessory use, but in no case shall the total square footage exceed sixty-four (64) square feet per surface and the maximum height shall be twenty-five (25) feet above the average grade level.

12.1062 The aggregate square footage of all on-site signs per parcel, including all sign surfaces, shall not exceed three hundred (300) square feet, exclusive of off-site signs.

12.1063 No sign shall be mounted on a structure on or above the roof line.

12.1070 The following signs may be permitted as a conditional use permit in all zoning Districts:

12.1071 Digital Signs subject to the following criteria:

1. The maximum square footage surface area of a sign cannot exceed size allowable in applicable zoning district.
2. Digital signs shall be capable of automatic dimming based on ambient light conditions.
3. Message displays shall be programmed to change no less than every 6 seconds.
4. Digital signs shall be designed and installed to not create a hazard for driving conditions on public roadways.
5. Digital signs shall be designed and installed to not create a nuisance on neighboring properties.
6. Digital signs being used as off-site signs shall only be permitted in accordance with 12.1080.

12.1080 Off-site signs may be permitted as a conditional use in Commercial and Industrial Districts subject to the following criteria:

- 12.1081 Off-site sign structures shall be limited to not more than one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) per each additional one hundred (100) feet of lot frontage.
- 12.1082 Such off-site structure may not contain more than two (2) signs per facing in total of no more than four (4) signs per structure.
- 12.1083 Off-site sign structures shall not exceed fifty-five (55) feet in total length.
- 12.1084 Off-site sign structures shall not exceed thirty-five (35) feet in height above the average grade.
- 12.1085 No off-site sign shall be erected within fifty (50) feet of any other zoning district.
- 12.1086 No off-site sign shall be permitted within ten (10) feet of any road or highway right-of-way.

12.1090 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.

12.1091 Legal nonconforming signs may be displayed subject to the following restrictions and Minnesota Statute Section 394.36, or successor statute:

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.

## 12.2000 PARKING AND LOADING

### 12.2100 General Provisions.

12.2101 Existing off-street parking spaces and loading spaces upon the effective date of this ordinance shall not be reduced in number unless the number exceeds the requirements set forth herein for a similar new use.

12.2102 Should a building, structure or use in existence upon the effective date of this ordinance be damaged or destroyed by fire or other cause, it may be re-established according to Section 8 but in doing so the number of off-street parking spaces which existed must be retained and should plans be proposed for enlarging the floor area, seating capacity or other facilities which would affect the parking spaces, shall be increased accordingly.

12.2103 The owner or occupant of all land parcels in the unincorporated area of Polk County shall provide such off-street parking and loading areas as set forth in this ordinance.

12.2104 Yards. Parking areas shall be setback twenty feet from the road right-of-way specified for the road classification.

12.2105 Benches. In stadiums, sports arenas, churches, and other places of public assembly where patrons or spectators occupy benches, pews or similar seating facilities, each 22 inches of such seating facility shall be counted as one seat for the purposes of determining requirements for off-street parking facilities under this ordinance.

12.2106 Parking space. Each parking space shall be unobstructed and not

less than 9 feet wide and 20 feet in length, plus adequate system of access.

12.2200 Design and Maintenance of Parking Areas.

- 12.2201 Drainage. Driveways within 50 feet of the public right-of-way shall not exceed a grade of 4% in all parking lots.
- 12.2202 Schools, elementary and junior high. At least one parking space for each classroom plus one additional space for each 100 student capacity.
- 12.2203 High school through college. At least one parking space for each classroom plus one additional space for each five students based on designed capacity.
- 12.2204 Churches and clubs. At least one parking space for each three seats based on the design capacity of the main assembly hall.
- 12.2205 Ballfield stadium. At least one parking space for each 8 seats designed capacity.
- 12.2206 Bowling alley. At least five parking spaces for each alley plus additional spaces as may be required by related uses such as a restaurant.
- 12.2207 Motor fuel station. At least four parking spaces plus three for each service stall.
- 12.2208 Retail store or service shop. At least one parking space for each 200 square feet of floor area.
- 12.2209 Restaurant, cafe, bar, tavern, night club. At least one parking space for each three seats based on designed capacity, plus five, or where there is no design layout, one parking space for each 35 square feet of gross floor area.
- 12.2210 Banks, offices. At least one parking space for each 250 square feet of gross floor area.
- 12.2211 Sales and warehouse up to 6,000 square feet. At least one parking space for each 400 square feet of gross floor area.
- 12.2212 Open sales lots. Four parking spaces plus one parking space for each 800 square feet of the first 1,000 feet of space.
- 12.2213 Skating, dance hall, miniature golf, private clubs, and similar



recreation uses. Ten parking spaces plus one additional parking space for each 200 square feet of floor space.

12.2214 Manufacturing, fabricating or processing of a product or material. Four parking spaces plus one for each 400 square feet of floor area.

12.2215 Warehousing and storage over 6,000 square feet of floor area. Four parking spaces plus one for each 2,000 square feet of gross floor area.

12.2216 Spaces for uses not listed shall use the requirements of the most similar use above.

12.2300 Off Street Loading and Unloading Areas.

12.2301 Location. All required loading berths shall be Off street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way, with the right-of-way width determined by the classification of road, not less than 50 feet from a residence unless within a building. Loading berths shall not occupy the required front yard.

12.2302 Size. Unless otherwise specified in this ordinance, a loading berth shall be not less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle space.

12.2303 Surfacing. All loading berths and access ways shall be improved with a durable material to control dust and drainage according to a plan provided by the developer and approved by the County Engineer.

12.2304 Accessory use. Any space allocated as a loading berth or access drive so as to comply with the terms of this ordinance, shall not be used for storage of goods, inoperable vehicles, or be used as a part of the required parking space.

12.2400 Required Loading Berths.

12.2401 Institutional uses shall have one loading space 25 feet in length for the first 20,000 square feet of gross floor area plus one for each 40,000 square feet thereafter.

12.2402 Retail sales and office shall have one loading space 25 feet in length for each 5,000 to 20,000 square feet of gross floor area plus one for each 10,000 square feet thereafter.

12.2403 Manufacturing, fabrication, warehousing, and servicing shall have one loading berth for each 5,000 to 30,000 square feet of gross floor area.

12.3000 INTERIM USE PERMITS – Purpose: This section presents conditions that must be met for each possible Interim Use allowed by the county.

12.3010 Land shall be used for any of the following purposes only upon the issuance of an Interim Use Permit.

12.3020 Asphalt & Concrete Mixing Plants, Portable under the following conditions:

- a. The plant and equipment must be located and screened in such a manner as to have the least environmental and aesthetic impact on adjacent properties.
- b. Traffic to and from the mining site shall be routed to avoid streets that primarily serve abutting residential properties.
- c. All Federal, State, and local air, water and noise standards must be met. All necessary Federal, State and local permits shall be obtained by the operator.
- d. Hours of operation shall be determined by the discretion of the zoning administrator based on the noise, traffic and air control mitigation measures.
- e. Aggregate mined on site must be adequate for use in asphalt or concrete and must be the primary source of aggregate used in the plant.

12.3024 Auction Business under the following conditions:

- a. The entire operation takes place on ten (10) acres or more.
- b. The applicant shall demonstrate adequate on-site parking and restroom facilities.
- c. Goods to be auctioned may be displayed outside in a secured area two (2) weeks prior to the auction, and must be removed from outside within two (2) weeks after the auction unless otherwise required by the IUP.

- d. All signage shall comply with Section 12 of the Zoning Ordinance.

12.3027 Bed & Breakfast under the following conditions:

- a. The facility may have no more than eight (8) guest rooms, used by temporary guests.
- b. The owner or caretaker shall live in the facility during normal operations.
- c. Rooms used for sleeping shall be part of the primary residential structure. The facility shall have a minimum of one (1) parking stall per guest room, and two parking stalls for staff. All parking shall be off-street.
- d. All signage shall comply with Section 12 of the Zoning Ordinance.

12.3030 Contractors yards under the following conditions:

- a. Employees report to the site only for the purpose of picking up equipment and supplies, for general equipment maintenance, or work in the office.
- b. An office may be maintained on the site either in a storage building or in the home. The maximum number of office employees in addition to family members residing in the residence on the site shall be three.
- c. Supplies stored on site are those used during the ordinary course of the construction business. The building or storage area shall not be used as a warehouse.
- d. The size of a contractors yard storage building(s) shall be limited by the size of the parcel of land. Building area of 1000 sq. ft. per acre will be permitted with the maximum size being 5000 sq. ft. even for parcels larger than five acres.
- e. Outside storage is screened from view of the road, any neighboring residences and a lake if the storage area is in the shoreland. Screening shall be as provided in Section 12.4100. A maximum of 25% of the area of the contractors yard parcel of land may be used for screened outdoor storage.

- f. Operation shall be in accordance with the plan of operation submitted as a part of this permitting process. The plan of operation shall be attached to and become part of the permit.
- g. An application is submitted which includes the following:

12.3031 A plot plan showing:

- a. Size of parcel.
- b. Location and size of all building on the parcel.
- c. Location and size of any area of outdoor storage any type of screening used.
- d. Location and distance of neighboring residences.

12.3032 An in depth description of the contracting business. The description shall contain at a minimum:

- a. The number of employees reporting to the site.
- b. Type of equipment stored on the site.
- c. Type and amount of materials and supplies stored on the site.
- d. Provision for maintenance of equipment.
- e. Provision for sanitary facilities for workers.
- f. Types of activities conducted on the site.
- g. Location of the office.

12.3035 Mining and/or land reclamation involving 10,000 cubic yards or more in the Shoreland or Floodplain Overlay Districts. Subject to the following regulations:

12.3036 The permit shall be issued only upon findings that:

12.3037 There is no substantial environmental impact or that such impact will be alleviated through a restoration program and other condition of the permit.

12.3038 The activity will have no substantial adverse impact on surrounding property or that such impact will be alleviated through the conditions of the permit.

12.3039 Each permit shall contain the following minimum standards unless modified by the Planning Commission, and all activities shall conform to these and any additional standards:

12.3040 General operating requirements must address operating hours, dust control, housekeeping, safety and specifying Annual Administrative Renewal.

12.3041 Minimum requirements for the mining operation:

- a. Erosion control measures shall be required. Erosion and siltation of the surrounding area shall be prohibited.
- b. No non-granular material shall be removed unless the permit is specifically for such an operation.
- c. Vertical faces shall be kept to a minimum except during actual mining.
- d. Mining shall not take place within 40 feet of a property line and/or no closer than to accomplish at 2.5:1 slope.
- e. The permit shall specify what operations are to occur in the permitted area and what general types of equipment may be used in the operation.

12.3042 Site/Operational Plan. A plan shall be drawn on both a 1" = 200' half section map and a 1" = 200' aerial plat showing at a minimum the operational area, mining area, phasing of mining, erosion control measures or structures, restoration areas, type of restoration, and staging of restoration, any areas where mining will be below the water table or result in standing water.

12.3043 Restoration. All permits shall contain a restoration plan providing for the reuse of the land after resource exhaustion. The permittee is responsible

for restoration. Following are the minimum standards for restoration:

- a. All areas where the resource is exhausted and not needed for other operations shall be restored at the completion of mining. The entire area shall ultimately be restored.
- b. All restoration shall include the application of sufficient topsoil or similar material to support plant growth.
- c. Grading standards:
  1. Final grades shall be in conformity with the topography of the surrounding land.
  2. Final grades shall not exceed (5:1).
- d. All restored areas shall be seeded with a mixture recommended by the Soil Conservation Service or returned to crop production. The permit may require a reforestation. Reforestation requirements shall be based on the recommendation for the Soil Conservation Service and/or the District Forester.
- e. Standards b. and c. above may be raised or modified to accommodate a specific restoration plan.

12.3044 Performance securities and insurance.

- a. The permittee shall acquire and keep in force for the duration of the permit, liability insurance specifically covering the mining and/or restoration and related operations. The permittee shall provide certification of insurance.
- b. A performance surety shall be provided. The permit shall specify the amount and type of surety required. The surety shall be used to reimburse the County for any monies, labor, or material expended to bring the operation into compliance with the conditions of the permit. The surety may be used after non-renewal of the permit and failure to execute the restoration plan. The surety may also be used if there is a failure to execute a phase of a

restoration plan specifically scheduled in the permit.  
This option may be executed 180 days after written notice of non-compliance to the applicant.

12.3045 An environmental assessment worksheet shall be completed for use as an informational document for any operation with a potential to remove over 16,000 cubic yards of material per year or in an area involving any of the following: slopes over 18%, shoreland, floodplain, wetlands, within 1000 feet of a platted subdivision, within 1000 feet of a public park.

12.3048 Home Business in an Accessory Building

- a. The business must be located on the homestead property of the business owner.
- b. All business activities may be conducted within a maximum of 1,800 sq.ft. within one accessory structure. If the accessory building is to be used for non-business use (i.e. personal storage), a partition wall or similar divider must be used to separate business from non-business use to identify compliance with the 1,800 sq. ft. maximum floor area. All work must be conducted within the Accessory Building.
- c. There may be no more than two (2) employees other than a member of the household residing on the premises.
- d. There may be no sandblasting, chemical/paint spraying, or similar use associated with the business.
- e. All signs must comply with Section 12 of the Zoning Ordinance.
- f. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the Interim Use Permit.
- g. The County may limit the daily hours of operation.
- h. Any solid or liquid waste must be handled and disposed of according to any applicable County or State regulations.
- i. The applicant and/ or property owner shall permit the County to inspect the property at anytime.

12.3051 Manufactured Home (temporary), for Family Members by Blood or Adoption provided:

- a. The manufactured home is to be located on a parcel of at least three (3) acres with one permanent dwelling. The occupant(s) of either the manufactured home or the permanent dwelling must suffer from a full or total permanent disability, as classified by Social Security, Worker's Compensation or a Doctor.
- b. The applicant shall submit with the application and as requested by the zoning administrator thereafter, a signed statement certifying that the occupant of the manufactured home is a family member who suffers a full or total disability as classified by Social Security, Worker's Compensation or a Doctor. The statement shall describe the need that makes it necessary for the relative to live on the same parcel that will allow the Zoning Administrator to verify his/her disability.
- c. The manufactured home shall be removed from the site within 120 days of such time as it or the permanent residence ceases to be occupied by a family member.
- d. The manufactured home shall not be made a permanent structure.
- e. The manufactured home shall not require the creation of a separate well.
- f. An on-site sewage treatment system to serve the manufactured home can be installed in accordance with Section 21 of this Ordinance. The sewage treatment system must be built to the standards for largest dwelling, the manufactured home or the permanent dwelling, on the property.

12.3052 Meteorological Towers, provided:

- a. The names of project applicant.
- b. The name of the project owner.
- c. The legal description and address of the project.
- d. A description of the project including tower height.



- e. Site layout, including the location of property lines, location of the meteorological tower, latitude and longitude of the meteorological tower, nearby structures. The site layout shall include distances and be drawn to scale.
- f. Documentation of land ownership or legal control of the property.
- g. Decommissioning Plan
- h. Signs with emergency contact information shall be posted on the tower or at another suitable point.
- i. Consideration shall be given to painted aviation warnings on metrological towers of less than 200 feet.
- j. Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Exceptions may be made by the Zoning Administrator for metrological towers, where concerns exist relative to aerial spray applicators.

12.3054 Temporary Tire and/or Waste Collection and/or Recycling Operations, provided:

- a. Adequate parking and restroom facilities shall be provided.
- b. A mitigation plan is submitted, controlling water pollution, air pollution, traffic, litter, odors, and noise.
- c. Events held by governmental entities are exempt from obtaining an IUP.

12.3057 Temporary Start-Up Business, provided:

- a. The business must be located on the homestead property of the business owner.
- b. The business shall be compatible with the neighborhood, and not create a nuisance.
- c. The business may be permitted through an IUP for a period no longer than three (3) years, after which time the IUP shall expire, and is not renewable or transferable. At the time of expiration, all business activities must end, and business related vehicles, equipment, and materials must

have been removed from the property, or the business must apply for a CUP.

- d. The business is located on a minimum of five (5) acres.
- e. Days and hours of operation shall be determined by the zoning administrator or the County Board.
- f. The maximum number of employees working on-site shall be determined by the zoning administrator or the County Board.
- g. All business activities may be conducted within a maximum of 1,800 sq.ft. within one accessory structure. If the accessory building is to be used for non-business use (i.e. personal storage), a partition wall or similar divider must be used to separate business from non-business use to identify compliance with the 1,800 sq. ft. maximum floor area. All work must be conducted within the Accessory Building.
- h. All signage must comply with Section 12 of the Zoning Ordinance.
- i. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the Interim Use Permit.
- j. The applicant and/or property owner shall permit the County to inspect the property at anytime.

12.4000 PERFORMANCE STANDARDS - Purpose: The guiding of development so as to create a compatible relationship of uses depends upon certain standards being maintained. Uses permitted in the various districts' conditional and accessory uses shall conform to the following standards.

12.4010 Noise. Any use established shall be operated so that noise levels do not exceed those permitted in Minnesota Rules 7010.0010 - .0080 which are hereby adopted by reference.

12.4020 Air Emissions. Any use established, enlarged or remodeled after the effective date of this ordinance shall be operated as to control the emission of smoke or particulate matter so that the standards set by the Minnesota Pollution Control Agency are met.

12.4030 Toxic and noxious matter. Any use established shall be so

operated as not to discharge toxic or noxious matter onto the ground, into the subsoil or into the air.

- 12.4040      Vibration. Any use creating periodic earth shaking vibrations such as may be created from a drop forge shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. The standard shall not apply to vibrations created during the process of construction.
- 12.4050      Glare or heat. Any use requiring an operation producing an intense heat or direct light transmission shall be performed with the necessary shielding to prevent such heat or direct light from being detectable at the lot line on the site on which the use is located.
- 12.4060      Explosives. Any use requiring the storage, utilization or manufacturing of Class A explosives shall be located not less than 400 feet from the lot line.
- 12.4070      Radiation and electrical emissions. No activity shall be permitted that emits dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance except from domestic and agricultural equipment adversely affecting the operation at any point of any equipment including but not limited to radio and television reception other than that of the creator of the disturbance.
- 12.4080      Traffic control. The traffic generated by any use shall be channelized and controlled in a manner that will avoid congestion on the public streets, safety hazards and excessive traffic through residential areas. Traffic into and out of all commercial and industrial uses and areas shall in all cases be forward moving, with no backing onto streets or pedestrian ways.
- 12.4090      Slopes of 18% or more (5.5:1, 10 degrees 12 minutes). The construction of a building or structure on a slope of 18% or more shall be permitted only upon submission and approval of an erosion control plan. Earth-sheltered structures to be constructed on slopes of 18% or more shall require structural and site plans designed and approved by a Registered Engineer.
- 12.4100      Screening. The screening of activities conducted under a conditional use permit or variance issued under the ordinance may be required as a condition of a permit or variance. The type and extent of screening shall be determined during the permit or variance process. If a fence is to be used as screening, the fence shall be between 6 feet and 8 feet in height and shall be at least

50% opaque. Plantings may be utilized for screening purposes provided the plantings are of a type that will attain 6 to 8 feet in height and 50% opacity throughout the year within two growing seasons after planting. Screening shall not be placed across an easement.

12.4110 Stormwater management. Impervious surface coverage of lots must not exceed 25 percent of the lot area.

12.4115 Buffer Regulations. Buffers shall be regulated through Section 25 of this ordinance.

12.4120 Height Provisions

12.4130 Height limitations as set forth in the district regulations shall be increased to 100 feet provided the structure is located at least the height of the structure plus 10 feet from any lot line for the following: Antennas, belfries, church spires and steeples, cooling towers, flagpoles, smokestacks, water towers, towers for windmills, wind generators, farm accessory structures and similar structures.

12.4140 Height of the above structures in excess of 100 feet shall be permitted upon issuance of a Conditional Use Permit. The permit may be issued only with findings that said structures could not be dangerous and would not adversely affect neighboring property.

12.5000 FENCES

12.5010 A fence may occupy any required yard.

12.5020 Fences shall not be erected in the public right-of-way.

12.5030 Fences encroaching on the structure setback requirement from the Ordinary High Water level specified in Section 18.2210 shall not exceed 4 feet in height and shall have no more than 25% opacity.

12.5040 No fence shall be erected within 10 feet of the Ordinary High Water level of water bodies listed in Sections 18.1120 and 18.1130.

12.5050 Fences erected along or near a public right-of-way shall not block visibility for traffic, nor create problems with right-of-way maintenance, or snow accumulation.

12.5100 Agriculture Fences. Fences erected for agricultural purposes on property

which the principal use is commercial agriculture.

12.5101 Minnesota Statutes Chapter 344 shall govern the construction and maintenance of agricultural fences.

12.5102 Agricultural fences shall be exempt from 12.5040.

12.5200 Residential Fences. Fences erected on property which the principal use is residential.

12.5201 Fences erected for the purpose of privacy shall not encroach on any required front yard nor exceed 8 feet in height.

12.5202 Boundary line fences shall be located on the property of the property owner causing the fence to be erected, unless the adjoining property owner agrees in writing to have the fence erected on the property line.

## 12.6000 PUBLIC UTILITY SERVICES

12.6100 Essential services are permitted uses in all zoning districts and may be installed within the public right-of-way and easements in accordance with MS 14.411, MS 237.163 and MR 7819.3100, and in accordance with those standards adopted by the County Engineer and after receiving approval from the responsible road authority. Notwithstanding any other requirements placed upon an applicant for a Right-of-Way Use Permit or other approval from a respective road authority with jurisdiction over a public Right-of-Way, the County Engineer may manage the Right-of-Way as follows:

- a. The County Engineer may require a Public Utility to obtain a Right-of-Way Use Permit (Permit) in accordance with MS 237.163. The County Engineer may, on forms provided by their office, require information necessary for the administration and maintenance of the public Right-of-Way, may place reasonable conditions on said Permit(s), may enforce those conditions placed upon said Permit(s), and collect reasonable fees from the Permittee for site inspection(s), Permit administration and final verification that the work was completed in accordance with the conditions of the Permit(s) issued.
- b. Unless otherwise specified by the County Engineer, the Permittee shall provide restoration of the Right-of-Way and surrounding area to its original condition, including pavement and foundations, within a timeframe(s) set by the County Engineer unless a waiver or an extension of the Permit(s) has been approved by the County Engineer.

- c. The County Engineer may choose to provide for the surface restoration of the Right-of-Way, and be reimbursed by the Permittee for those reasonable costs to provide for the surface restoration as a condition of the Permit(s). Furthermore, in the event the Permittee fails to provide for adequate surface restoration in compliance with the Permit(s) issued, or in the timeframe(s) specified in the Permit(s), the County Engineer may provide for the surface restoration of the Right-of-Way and surrounding area, and be reimbursed by the Permittee for that work .
- d. No Public Utility or Permittee shall cause delay in any Public Works Contract, as defined in MS 15.411, as a result of failure to remove, alter or relocate a utility in the public Right-of-Way in a reasonable and timely manner, as established by the County Engineer. No contractor shall seek damages against the County Engineer or the County as a result of a Public Utility failing to comply with an order of the County Engineer to remove, alter or relocate a utility in the Public Right-of-Way necessary for any Public Works Contract.
- e. No Permit may be issued to a Public Utility who is currently in violation of a previously issued Permit(s), or any condition thereof, issued under this section. No Permit may be issued to a Public Utility if there is an outstanding debt to the County for surface restoration related to that Public Utilities prior Permit(s) or project(s). Once the County Engineer determines that a Public Utility has satisfied any outstanding issues or debts related to their previous Permit(s), the County Engineer may act upon any new application for an additional Permit(s).

12.6101 Essential services extended from the system to serve a single parcel of land abutting a public right-of-way or easement are not subject to height, yard and setback regulations, certificate of occupancy or other than the approval of the owner.

12.6102 Should a non-public easement be desired for installation of an essential service which will serve more than one parcel of land, said easement shall require approval under the conditional use permit provisions.

12.6200 Public Utility Buildings and structures such as substations not customarily considered industrial in use, are permitted in all zoning districts except that such uses shall require a conditional use permit. Such buildings and structures shall not be less than 50 feet from any lot line and this section shall be considered a variance to permit a lot area less than the minimum required for the district in which such building or structure is located. In order to approve an application for such a conditional use permit the Planning Commission must find that the applicant has shown:

12.6201 That the landscape treatment is in keeping with the neighborhood

and provides screening where appropriate.

- 12.6202 That the installation is secure from the public and does not create a potential public hazard.
- 12.6203 That the building is of an architectural style in keeping with the neighborhood.
- 12.6204 That access and parking is adequately provided.
- 12.6205 That the proposed maintenance program of the building, structure and grounds is in keeping with the neighborhood.
- 12.6300 Transmission Services and Pipelines. The installation of new, realigned or extended transmission services and pipelines not intended for en route consumption shall require a conditional use permit. The applicant for such a permit shall provide to the following:
  - 12.6301 The applicant shall file with the zoning office such maps and data as are necessary to indicate the proposed alignment with the conditions of easement, type of service proposed, depths and size of underground installations, pole heights, location and type and other data as is required.
  - 12.6302 Should the installation propose tree removal, grading or construction in drainage basins, an environmental impact study may be requested from the applicant by the Planning Commission. The request shall be placed on a Planning Commission agenda following the filing of the application for preliminary review and to make a decision relative to the impact study.
- 12.6400 Notwithstanding Section 12.6100, no Filing or Application with the Zoning Office shall be necessary under this section to maintain, reconstruct or relocate existing lines or facilities where the general line and conformation thereof remains essentially the same.
- 12.7000 UNLICENSED PASSENGER VEHICLES
  - 12.7010 No more than five (5) passenger vehicles not currently licensed shall be kept or stored outside a building in any district unless specifically permitted by this ordinance.
  - 12.7020 Screening must be provided to block the view of the vehicles from any public right-of-way.
  - 12.7030 The vehicles may not be stored in any required yard.

12.7040 Hazardous materials, including gasoline, diesel fuel, oil, antifreeze, and lead acid batteries, must be managed in compliance with Federal, State and Local regulations.

12.7050 Notwithstanding Section 8, property not in compliance with 12.7010 shall be brought into compliance with this section within three years from the adoption of this ordinance.

12.7060 If permitted in the district in which a non-compliant parcel is located, a Conditional Use Permit or Administrative Special Use Permit may be applied for to bring the parcel into compliance.

12.8000 RESIDENTIAL POOLS

12.8100 Indoor and outdoor residential pools accessory to the principal residence found on the property shall be allowed in all zoning districts, subject to the criteria as listed in 13.4700, 14.4700, and 18.3000.



## SECTION 13 "GA" GENERAL AGRICULTURE DISTRICT REGULATIONS

- 13.1000 PERMITTED PRINCIPAL USES. The following are permitted principal uses in the general agriculture district unless modified by Sections 17 and 18.
- 13.1010 Commercial Agriculture as defined in 3.0170.
  - 13.1020 Single family detached dwellings.
  - 13.1030 Churches, including related structures and activities located on the same site which are an integral part of the church proper and a single family home for persons related to the religious functions. All structures shall be located at least 50 feet from any lot line.
  - 13.1040 Cemeteries.
  - 13.1050 Signs, as regulated in Section 12.
  - 13.1060 Local government administrative and service buildings.
  - 13.1070 Personal use landing strips.
  - 13.1080 Gravel mining.
  - 13.1100 Grading, excavating or filling of 1000 cubic yards or more, for one project including, but not limited to, mining, landscaping, excavation for wildlife habitat, excavation and preparation for building and similar activity, land improvement, subject to the provisions of this section. Maintenance of established drainage ditches and grading and filling for agriculture shall not require a permit under this section. Other permits may be required from Federal, State, or Local units of Government, including Watershed Districts. A Interim Use Permit is required in the Shoreland and Floodplain Overlay Districts if the project exceeds 10,000 cubic yards. See 12.3035.
- 13.2000 FEEDLOT REGULATIONS. (Feedlot regulations - refer to Section 19).
- 13.2100 Feedlots shall not be established within a Shoreland District unless a Conditional Use Permit pursuant to Sections 7 and 18 is issued.
  - 13.2200 Feedlots shall not be established within a Floodplain District unless a Conditional Use Permit pursuant to Sections 7 and 17 is issued.
  - 13.2500 ANIMAL DENSITY REGULATIONS. On parcels greater than 5 acres, the animal unit density of a feedlot shall be limited only by the provisions of a feedlot permit or certificate of compliance. A feedlot operated under

or as part of a Conditional Use Permit may be further regulated by the conditions of the permit in addition to the provisions of a feedlot permit or certificate of compliance.

- 13.2501 On parcels of 2.4 - 5 acres, 1 animal unit per acre is permitted, with the number of acres rounded up to the nearest whole number.
- 13.2502 On parcels of at least 1.5 acre, but less than 2.4 acres, 1 animal unit is permitted.
- 13.2503 On lots of less than 1.5 acre, only dogs, cats, chickens, and other animals customarily kept as pets are permitted. Chickens will be subject to the following criteria:
  - A. No more than 12 chickens will be allowed.
  - B. They must have a shelter, subject to building regulations of Section 13, and an open lot area.
  - C. They must be confined on the property.
  - D. Roosters will be prohibited.
- 13.2504 Dogs, cats and other animals customarily kept as pets are not subject to the Animal Density regulations.

13.3000 **BUILDING ELIGIBILITY REGULATIONS FOR STRUCTURES.** A new building site(s) may be established or a site containing an existing structure may be subdivided only if the following provisions are met:

- 13.3010 In no case shall a lot be subdivided in a manner that would deprive the remaining parcel of the required frontage on a public road unless the remaining parcel will be attached to an abutting parcel with road frontage, except as provided in Section 13.8310.
- 13.3020 Building sites shall be permitted only as outlined in this section.
- 13.3030 Any lot subdivided that contains existing an existing building(s) must meet all the requirements of Section 13.8000, except setbacks from lot lines that are not changed when the new lot is created.
- 13.3040 Any lot subdivided or used for a building site must have frontage on a public road and meet all the requirements of Section 13.8000.

13.3100 A building eligibility is available pursuant to one of the following provisions:

- 13.3110 Lots of Record.

- 13.3111 A lot of record existing as of 3 September, 1971 may be utilized for a single family detached dwelling regardless of size provided the provisions of this section are met.
- 13.3112 A lot of record created between September 3, 1971 and the date of enactment of this ordinance may be utilized for a building site provided the lot is at least one acre and the provisions of this section are met.
- 13.3113 The lot of record has a minimum of 33 feet of frontage on a public road or a permanent or perpetual easement has been recorded with the deed which provides for access to the property.
- 13.3114 The building can meet the provisions of 8.2000.
- 13.3115 The lot of record has suitable soils and adequate area to permit the installation of conforming water supply and sewage treatment facilities.
- 13.3120 In the case where a lot of record does not have a building eligibility pursuant to 13.3110 because of the lack of frontage on a public road, a building eligibility shall be available provided:
- 13.3121 The lot of record is contiguous to another parcel having public road frontage. For the purposes of this section "contiguous parcels" shall not include parcels entirely separated by a road, railroad, or publicly owned trail, nor shall parcels touching at a single point be considered contiguous.
- 13.3122 The lot of record has a minimum area of 5 acres.
- 13.3123 The lot of record is combined legally and for taxing purposes with the contiguous parcel.
- 13.3124 The building eligibility is utilized somewhere on the parcel resulting from the combination of parcels described in 13.3123 above and any new lots created conform to the requirements of this ordinance.
- 13.3130 A minimum of one and one half acres containing an existing structure may be subdivided from a lot of record under the following conditions:
- 13.3131 The lot subdivided has frontage on a public road and meets all the requirements of Section 13.8000 except setbacks

from lot lines that are not changed when the new lot is created.

13.3132 The remaining portion of the lot of record has a reasonable use and has frontage on a public road and meets all the requirements of Section 13.8000 or is attached to an adjacent parcel.

13.3200 A second detached single family dwelling on a parcel of at least 3 acres subject to the following criteria:

- A. The structure, if permanent, must be located so that the parcel can be subdivided in compliance with 13.8000.
- B. If the structure is temporary, it shall be located so the parcel can be subdivided in compliance with 13.8000, or require a Interim Use Permit as required in Section 7.0000.
- C. The second dwelling must be served by a new septic system or its own existing septic system in compliance with Section 21.0000 of this Ordinance.
- D. The second dwelling must be able to be served by its own well.
- E. The second dwelling must have access to a public road.

13.4000 **ACCESSORY USES:** Within the agricultural district no permit shall be required for the placement of a single-story accessory structure that is less than 100 square feet in size as long as the following conditions are met:

- a. The structure constitutes a minimal investment.
- b. The structure meets all applicable setbacks within the Agricultural District.
- c. The structure needs to conform to the standards in 13.4200.
- d. The structure must not be constructed on a permanent foundation.

Within the agricultural district the following uses shall be permitted accessory uses:

13.4100 One garage for the storage of passenger vehicles per lot.

13.4200 Accessory structures on parcels of less than 10 acres: Accessory structures (in addition to the attached or detached garage and existing agricultural buildings not suitable for storage) shall be permitted on

parcels of less than 10 acres as follows:

- 13.4205 Agricultural Accessory structures used for Agricultural uses shall be permitted.
- 13.4210 The following standards shall apply to nonagricultural accessory structures to be located upon parcels of two acres or less:
  - 13.4211 The maximum size shall be 1,200 sq. ft. Two or more accessory structures having a combined total of 1200 sq.ft. are permitted. Additions to existing accessory structures will be permitted only in cases where the total square footage after the addition will not exceed 1,200 sq. ft.
  - 13.4212 Maximum sidewall height shall be 12 feet.
  - 13.4213 Maximum total height from average grade shall be 17 feet.
- 13.4220 On parcels larger than two acres up to and including five acres, the maximum size for an accessory structure shall be 2500 sq.ft. Two or more accessory structures having a combined total of 2500 sq. ft. are permitted. Additions to existing accessory structures will be permitted only in cases where the total square footage after the addition will not exceed 2500 sq.ft.
- 13.4230 On parcels over five acres, the maximum size for an accessory structure shall be 4000 sq.ft. Two or more accessory structures having a combined total of 4000 sq. ft. are permitted. Additions to existing accessory structures will be permitted only in cases where the total square footage after the addition will not exceed 4000 sq.ft.
- 13.4240 All accessory structures constructed under this section must meet the following criteria:
  - 13.4241 Location shall be in accordance with 13.8000.
  - 13.4242 The structure shall be used only by the occupant(s) of the residence. The structures may be used for: Storage of household goods, recreational vehicles and equipment, personal vehicles, maintenance and repair of personal vehicles and equipment, a shop or similar activity, keeping of animals and appurtenant equipment and supplies, and as otherwise regulated by this ordinance.

- 13.4300 Home Occupations. It is the intent of this subdivision to provide for the operation of a business or profession in the home or with the home as a base of operations as an accessory use provided that the operation of the home occupation is secondary to the use of the home, land, and any accessory structures for residential purposes. The home occupation shall be conducted principally by the members of the family occupying the dwelling.
- 13.4301 Conduct of the home occupation shall not require alterations to the exterior of the residence or change the residential character of the residence, land or any accessory structures thereof.
- 13.4302 No more than two employees other than members of the family living on the premises may be employed on the premises.
- 13.4303 Signs as regulated by Section 12, specifically 12.1037.
- 13.4304 No outdoor storage or display of goods is permitted.
- 13.4305 Any additional need for parking generated by the home occupation shall be met by off-street parking.
- 13.4306 All home occupations shall conform to Section 12.
- 13.4307 Should the home occupation be repair, the items repaired shall be of a size or nature that repair can occur within the home or accessory structure.
- 13.4308 The home occupation shall not generate sewage of a nature or type that cannot be treated by a permitted on-site sewage system.
- 13.4309 Any home occupation use that does not comply with one or more of the aforementioned conditions shall be required to obtain a Conditional Use Permit as prescribed in 13.7020.
- 13.4400 Decorative Landscaping Features.
- 13.4500 Signs as regulated in Section 12.
- 13.4600 Private Tennis Courts.
- 13.4700 Private Swimming Pools:

- 13.4701 Shall not be located under any power line nor in any front yard.
- 13.4702 Shall be located so that water from the back flushing of a filter or draining the pool is naturally filtered before reaching a stream or lake.
- 13.4703 Shall be located so that water from the back flushing of a filter or draining the pool will not flow on neighboring property unless there is written permission from the adjoining property owner(s) and said agreement is recorded.
- 13.4704 Shall not require a Conditional Use Permit as long as requirements found in 18.3000 are followed.
- 13.4800 Buildings, structures or uses temporarily located for purposes of construction on the premises for a period of time not to exceed the time normally necessary for construction.
- 13.4900 Roadside stands for sale of horticultural products, provided off street parking is available.
- 13.5000 Residential equipment and functions unless specifically regulated by this Ordinance or other ordinance.
- 13.5100 Day Care facilities serving 10 or fewer persons and residential facilities serving six or fewer persons provided the activity is licensed by the State or other appropriate regulating agency and is located in a single family home.
- 13.5200 Construction of permitted structures and filling and excavation appurtenant thereto upon the approval of an erosion control plan and the issuance of all required permits.
- 13.5300 Agricultural structures may be utilized for the compensated storage of boats, recreational vehicles, and motor vehicles, provided:
- 13.5301 The storage activity is clearly incidental to the principal use of the property.
- 13.5302 In cases where, because of a subdivision of land occurring prior to the adoption of this provision, an agricultural structure is located on a parcel of land that does not have an existing principal use, a Conditional Use Permit may be issued pursuant to 13.7018.

13.5303 Agricultural structures utilized pursuant to this provision shall remain agricultural in nature.

13.5400 Composting

13.5410 Backyard Composting is allowed subject to the following requirements:

- a. Composting piles or containers shall be located and designed so that seepage from the compost will not run off into public or private roads, storm sewers, drainage ditches, streams or lakes.
- b. No compost pile or container may be located within the yard setback requirement, or closer than fifty (50) feet to any residential dwelling, except the dwelling on the property at which the compost container is located.
- c. No compost pile or container may be placed within twenty (20) feet of any body of water or state protected wetland.
- d. No compost pile may be located within the shore impact zone or bluff impact zone, unless contained within a composting bin.
- e. Acceptable materials for a backyard compost site are those materials defined by Minnesota Rules 7035.0300 Subp. 7.

13.5450 Small Composting Site: Permitted use subject to the following requirements:

- a. Must not exceed 120 cubic yards on site at any one time.
- b. Composting site shall be located and designed so that seepage from the compost will not run off into public or private roads, storm sewers, drainage ditches, streams or lakes.
- c. No compost site may be located within the yard setback requirement, or closer than fifty (50) feet to any residential dwelling, except the dwelling on the property at which the compost site is located.
- d. No compost site may be placed within twenty (20) feet of any body of water or area designated as flood plain, shoreland, or state protected wetland according to Minnesota Rules 7035.2555.
- e. Acceptable materials for a small compost site are those materials



defined by Minnesota Rules 7035.0300 Subp. 99a.

- f. All composting must occur in a controlled manner to minimize the creation of nuisances. Compost materials shall be layered, aerated, moistened, turned and managed to promote effective decomposition of the materials in a safe, secure and sanitary manner.
- g. When the composting process is finished and the compost resembles a soil-like humus or mulch material, it shall be used as a soil amendment. Finished or unfinished compost shall not be used in a manner causing a nuisance. Compost made with poultry litter must be used on site.

13.5500      Landspreading of petroleum contaminated soils provided all requirements of the Minnesota Pollution Control Agency and the Polk County Solid Waste Ordinance are complied with.

13.6000      ACCESSORY USES REQUIRING AN ADMINISTRATIVE SPECIAL USE PERMIT. The following are permitted accessory uses within the General Agriculture District, but require that a "Certificate of Zoning Compliance" be issued by the Zoning Administrator prior to initiation:

- 13.6010      The Zoning Administrator can issue said permit only if all criteria listed are met.
- 13.6020      If non-compliance is determined, the applicant shall be notified of the appropriate action to be taken.
- 13.6030      If it is determined that the application complies with the ordinance, the application shall be referred to the Township Board, adjoining property owners, and applicable affected units of government or agencies, for review and comment.
- 13.6040      If no adverse comments are received from the notified parties within 30 days the Administrator shall issue the certificate. If the applicant provides signatures from all notified parties stating that they do not have any negative comments with the applicant's request, the 30 day notification period may be waived.
- 13.6050      The certificate shall clearly state the conditions upon which it is issued and shall contain the legal description of the property. A copy of said certificate shall be recorded against the property.
- 13.6060      Negative action by the Township, or adverse comment from any other notified party, shall cause the application to be considered at

the next appropriate Planning Commission meeting as an application for a Conditional Use Permit.

13.6200 Crop storage as a principal use subject to the following conditions:

13.6201 Access is approved by the appropriate road authority.

13.6202 Sufficient area is provided so that trucks loading or unloading, or trucks waiting to load or unload, are not within the public road right-of-way.

13.6300 Storage of unlicensed passenger vehicles in excess of those permitted in Section 12.7000, subject to the following conditions:

13.6301 Storage shall not be located within any required yard.

13.6302 Screening shall be provided according to Section 12.4100 to block the view of the storage from any public right of way.

13.6303 Hazardous materials, including oil, antifreeze, and lead acid batteries, shall be managed in compliance with all Federal, State, and Local rules and regulations.

13.7000 **CONDITIONAL USES.** Land in the agricultural district shall be used for any of the following purposes only upon the issuance of a Conditional Use Permit.

13.7001 Non-Agricultural Accessory structures:

a. Accessory structures of over 2,500 sq. ft. on parcels greater than two acres and less than five acres.

b. Accessory structures over 4000 sq. ft. on parcels over five acres.

c. A new accessory structure on a parcel of less than 10 acres that would bring the total square footage of accessory structures to over that permitted in Section 13.4200.

13.7002 Convenience Stores provided that access is from a paved road.

13.7003 Farm-related Businesses. Business directly related to the conduct of commercial agriculture provided the following criteria are met:

a. The business is 70% farm-related under 1 or more of the following criteria:

1. The business provides a repair or maintenance

service for equipment necessary to agricultural operations, or;

2. The business produces a product or involves a process that utilizes locally grown or produced commodities, or;
3. The business involves sales and/or purchasing of products of the local agricultural economy or of goods unique and necessary to agricultural operations.

b. Sewage can be treated by a conforming on-site sewage system.

c. The business is of a scale that the demand for support services such as sewer, water, police, fire protection, roads or streets, can be accommodated within the context of the service levels available in the agricultural area.

d. The business is operated in conformance with the conditions of an approved plan of operation and the applicable provisions of Section 12.

13.7004 Public schools or schools which teach a similar curriculum, provided the school has the approval of the State Department of Education, and no building is located within 100 feet of any lot line.

13.7005 The operation of through trains, but not including switching, storage or other railroad operations.

13.7006 Day nurseries accommodating more than 10 children provided appropriate licenses and/or permits are granted by the State or other affected agencies.

13.7007 Public parks provided such facilities are in compliance with Polk County Comprehensive Plan.

13.7008 Airports. Approval of the Minnesota Department of Transportation is required.

13.7009 Historical sites and activities as recognized by the State Historical Society.

13.7010 Commercial kennels under the following conditions:

- a. The facility is located on a minimum of five acres.
- b. The facility is 1000 feet from any residence except that of the owner and a minimum of 1/2 mile from ten or more homes existing prior to application for a permit under this provision.
- c. Confinement and shelter is provided through the use of fences and structures.
- d. Any new lot created meets the requirements of Section 13.8000.

13.7011 Private or governmentally owned or operated sites for: solid waste land disposal facility, transfer station, demolition debris land disposal facility, recycling facility, incinerator, waste composting site, tree waste utilization site, provided the following standards are met:

- a. The facility/operation is in compliance with the Polk County Solid Waste Ordinance and any other applicable ordinance.
- b. The facility/operation is in compliance with the adopted Comprehensive Plan and the Solid Waste Management Plan.
- c. Any required environmental assessment documents have been developed and required review procedures have been completed.
- d. Any required County, State, or Federal licenses have been issued.
- e. The facility/operation is in compliance with all applicable Minnesota Pollution Control Agency and U.S. Environmental Protection Agency rules and regulations.
- f. An operational plan shall be developed and the activity conducted in accordance with the operational plan.
- g. The permit shall be subject to annual renewal.

13.7012 Riding academies, stables and similar uses under the following conditions:

- a. The use must be located on a minimum of ten acres. The number of animal units permitted will be regulated by the permit.
- b. If the facility has more than ten horses a feedlot permit or certificate of compliance must be issued.

- c. If the facility has ten or less horses there must be an acceptable manure handling plan.
- d. Any new lot created must meet the requirements of 13.8000 except that the minimum required setback shall be fifty feet.
- e. The facility is operated in conformance with an approved plan of operation.

13.7013 Golf courses subject to the following criteria:

- a. If the course is proposed to be located in the floodplain, all criteria in Section 17, in addition to these criteria must be complied with.
- b. The course must be located on either a minor collector, a major collector, a minor arterial or major arterial road as identified in the Transportation Plan.
- c. A permanent club house must be constructed that is adequate in size to serve the proposed number of golfers.
- d. The course must be a minimum of 9 holes.
- e. Parking requirements. Twenty spaces, plus three spaces per hole. If a restaurant and/or bar is established, one additional space per four seats is required. Additional requirements may be added if additional activities are proposed.
- f. There must be a complying on-site sewer system. The County may require that the system be designed by a registered engineer.
- g. The applicant will submit information identifying wetlands, water courses, water bodies and wooded areas. The applicant will also state how the proposal would affect the above natural features. The proposal will be reviewed to determine adverse impact on the above natural features and on areas or sites of historical or archaeological significance. Conditions may be imposed to limit or prevent adverse impact on the above stated or other natural features.
- h. The applicant shall submit an operational plan which, when accepted by the County Board, shall become part of the Conditional Use Permit.
- i. Any of the above requirements may be waived by the County Board for golf courses existing at the time of adoption of the subdivision or for golf courses that were once in existence and are

being reactivated.

- j. Appropriate uses accessory to a golf course include but are not limited to a pro shop, a club house, locker room, restaurant and bar, private parties, tennis courts, racquetball, swimming pool, indoor track, exercise room, sauna or steam room, snowmobiling, snowshoeing, cross country skiing.
  - 1. These are uses generally or sometimes found in conjunction with golf courses. Those permitted under a particular Conditional Use Permit will be dependent upon additional parking capacity, the capacity of the on-site sewer system and the water supply system.
  - 2. If these uses are to be permitted they must be addressed in the operational plan. Any changes in use require an amendment to the Conditional Use Permit.
- k. The front yard setback area may be utilized for parking purposes. At no time shall a parking lot intrude upon or in any way utilize public right of way for parking purposes.
- l. An Environmental Assessment Worksheet (EAW) must be completed.

13.7014 Aquaculture. The use of water or a combination of land and water for the growing, raising, feeding, breeding or holding of aquatic plants or animals and activities appurtenant thereto subject to the following criteria:

- a. The provisions of Section 17 and 18 are met if applicable.
- b. Any required State or Federal permits are applied for and issued.
- c. The activity must be located on a minimum of five acres.
- c. The Conditional Use Permit shall establish whether retail sales are permitted and if permitted to what extent.

13.7015 Recreational activities. Activities conducted on a permanent, seasonal or scheduled basis subject to the following criteria:

- a. A certificate of insurance and/or a performance surety may be required.
- b. If sanitary facilities are necessary, a conforming on-site system can

be installed.

- c. An operational plan is established and all activities are conducted in accordance with the operational plan.
- d. A stipulation is made in the permit as to the number of persons to be using the facility at any one time.
- e. Any type of special event that will attract or involve more than the number of people stipulated in d. above shall require approval of the County Board.
- f. The permit shall be subject to annual Administrative Review.
- g. Construction of a new sports or entertainment facility designed for or expected to accommodate a peak attendance of 5,000 or more persons, or the expansion of an existing sports or entertainment facility to this amount requires an environmental assessment worksheet (EAW). See Section 4.3900 of the Polk County Zoning Ordinance for the EAW criteria.
- h. If the number of people at any one event shall exceed 1,000 persons, the applicant shall be required to follow those requirements of Section 20.0000.

13.7016 Retail nurseries provided:

- a. The nursery is located on a parcel of five acres or more.
- b. Retail facility shall not be located within 500 feet of any residence except that of the owner.
- c. No more than 10% of the retail business volume shall be non-horticultural items.
- d. Operation shall be in accordance with an approved plan which shall become part of the permit.
- e. Access is approved by the appropriate road authority.

13.7017 Conditional Use Permit for areas zoned other than "A-2 General Agriculture" (Polk County Zoning Ordinance, September 1971) prior to the adoption of this Ordinance. A permit may be issued pursuant to this provision to permit the continued operation and expansion of uses located on parcels zoned other than "A-2 General Agriculture" prior to the adoption of this Ordinance if

there is no other provision under which such uses can operate. The permit shall provide for the continuation and/or expansion of existing uses, but shall not provide for a change to a different use.

- 13.7018 Use of existing agricultural structures for compensated storage purposes. A permit may be issued for the use of existing agricultural structures for storage purposes in cases where the storage use cannot be considered an accessory use due to a subdivision of land that occurred prior to the adoption of 13.5300. The permit shall provide for the use of the structure(s) as provided in 13.5300 and shall include, at a minimum, conditions reflecting the requirements of 13.5301.
- 13.7019 School bus service. The operation, maintenance and storage of more than two school buses provided the following criteria are met:
- a. Access must be approved by the appropriate road authority.
  - b. Adequate parking must be provided for all employees coming to the site.
  - c. Sewage must be treated by a conforming on-site sewage system.
  - d. The business is operated in conformance with the conditions of an approved plan of operation and the applicable provisions of Section 12.
- 13.7020 An accessory structure not used in conjunction with a home occupation that does not comply with 13.4240, or where the use of the accessory structure is in conjunction with a home occupation but does not meet one or more criteria listed in 13.4300 – 13.4310, may be allowed provided that:
- a. The applicant complies with those criteria listed in 13.4300 – 13.4310, or has satisfactorily addressed any of those requirements for which they are unable to comply; and
  - b. There is a demonstrated need to use the accessory structure as a part of the home occupation.
  - c. If the use of the accessory structure is for storage of equipment or materials to be used off site, the use of the accessory structure shall not require a Conditional Use Permit, provided the use is in conformance with 13.4300



- 13.7021 Recreational, educational, institutional, or religious facilities or activities, such as an organized group camp, subject to the following criteria:
- a. The site has frontage on a hard surface public road unless access via a gravel road is approved by the appropriate road authority.
    1. The access meets the access requirements of the road authority.
    2. The road authority will grant permission.
  - b. A certificate of insurance and/or a performance surety may be required.
  - c. Soils are suitable for construction of an on-site sewer system large enough to accommodate the use. The sewer system shall be approved by the Minnesota Department of Health.
  - d. An operational plan is established and all activities are conducted in accordance with the operational plan.
  - e. A stipulation is made in the permit as to the number of persons to be using the facility at any one time.
  - f. Any type of special event that will attract or involve more than the number of people stipulated in d. above shall require approval of the County Board.
  - g. The permit shall be subject to annual Administrative Review.

- 13.7022 Public swimming pools subject to the following criteria:
- a. Not located under any power lines.
  - b. Water from the back flushing of filters or draining the pool is naturally filtered before reaching a stream or lake.
  - c. Water from the back flushing of filters or draining the pool will not flow on neighboring property unless there is written permission from the affected property owner(s) and said agreement is recorded.
  - d. A certificate of insurance and/or a performance surety may be required.
  - e. A conforming on-site sewage treatment system can be installed.

- f. A stipulation is made in the permit as to the number of person to be using the facility at any one time.
- g. The permit shall be subject to annual Administrative Review.

13.7023 Bulk Agricultural fertilizer, petroleum and chemical storage under the following conditions:

- a. Access shall be approved by the appropriate road authority.
- b. The facility shall comply with Department of Agriculture regulations.
- c. Structures must be setback from property lines a minimum of 100 feet.
- d. Facility must be at least 1 mile from platted property or an incorporated municipality.
- e. Facility must be at least 1 mile from 5 or more homes or places of gathering, such as churches, schools, or community halls.
- f. An emergency plan must be submitted to, and approved, by the appropriate fire department, emergency medical service, sheriff, and Emergency Services Coordinator.

13.7024 Campgrounds, provided the following conditions are met:

- a. An operational plan is established and all activities are conducted in accordance with the operational plan.
- b. A certificate of insurance and/or a performance surety is required.
- c. The use will comply with all applicable local, state, and federal laws, rules, regulations and ordinances.
- d. All sanitary facilities installations shall comply with the current standards of the Minnesota Department of Health, as well as any other applicable State and Local codes and standards.
- e. Wetland delineation is completed for the area the campground will be located on.
- f. A stipulation is made in the permit as to the number of campsites and people to be using the facility at any one time.

- g. Campsites shall be a minimum of two thousand (2000) square feet in area.
- h. At least 50 percent of the total project area must be preserved as open space;
- i. Campsites must be setback one hundred (100) feet from all public road right-of-ways and property lines.
- j. Roadways must be constructed with a driving surface of fourteen (14) feet for a one-way and twenty-four feet for a two-way road.
- k. Have traffic control consisting of parking limited to individual campsite spurs and parking areas constructed for that purpose. No parallel parking on site access roads within camping area shall be permitted.
- l. Sanitation receptacles shall be provided for the campground patrons.
- m. Campgrounds shall be located on a minimum of 3 acres with a minimum lot width of 300'.
- n. The permit shall be subject to annual Administrative Review.

13.7025 Rental Storage Buildings, provided the following conditions are met:

- a. An operational plan is established and all activities are conducted in accordance with the operational plan.
- b. A certificate of insurance and/or a performance surety is required.
- c. Structures must be setback from property lines a minimum of 100 feet.
- d. Screening must be provided as established in 12.4100.

13.7026 Private and Public Shooting Ranges, provided the following conditions are met:

- a. A certificate of insurance and/or a performance surety may be required.
- b. If sanitary facilities are necessary, a conforming on-site system can be installed.

- c. An operational plan is established and all activities are conducted in accordance with the operational plan.
- d. A stipulation is made in the permit as to the number of persons to be using the facility at any one time.
- e. Any type of special event that will attract or involve more than the number of people stipulated in d. above shall require approval of the County Board.
- f. The permit shall be subject to annual Administrative Review.
- g. Construction of a new sports or entertainment facility designed for or expected to accommodate a peak attendance of 5,000 or more persons, or the expansion of an existing sports or entertainment facility to this amount requires an environmental assessment worksheet (EAW). See Section 4.3900 of the Polk County Zoning Ordinance for the EAW criteria.
- h. If the number of people at any one event shall exceed 1,000 persons, the applicant shall be required to follow those requirements of Section 20.0000.
- i. Facility must be at least 1 mile from platted property or an incorporated municipality.
- j. Facility must be at least 1 mile from 5 or more homes or places of gathering, such as churches, schools, or community halls.
- k. Screening must be provided as established in 12.4100.
- l. Noise standards shall be followed in accordance with Minnesota Statutes Section 87A.05.

13.7030 On-sale or on-sale with off-sale liquor establishments. Subject to the following regulations:

13.7031 Building site. The building must meet the following setbacks:

- a. The building must be a minimum of 75' from side lot property lines.
- b. The building must be a minimum of 75' from rear lot property lines.
- c. The building must be a minimum of 100' from the Right-of-Way lines.
- d. The building must be placed on a lot which meets the minimum lot sizes

for the zoning or overlay district which it will be located in.

- 13.7032 Building location. The building must maintain the following setbacks:
- a. Maintain 1-mile separation distance between the proposed establishment and any school, church, chemical storage tanks, feedlot or park.
  - b. Maintain a 2 mile separation distance between the proposed establishment and any hospital or clinic, platted area of 10 or more lots, except those platted areas located within a municipality's incorporated limits.
  - c. If the building is to be located within 2 mile of a municipality's incorporated limits, the building will be placed in accordance with the municipality's setbacks from other establishments, as regulated by the municipality.
- 13.7033 The septic system servicing the establishment meets the requirements of Minnesota Rules Ch. 7080 and Section 21 of this ordinance.
- 13.7034 All applicable liquor licenses are applied for and obtained prior to the C.U.P. hearing. If a C.U.P. is granted, it is contingent on approval of all applicable liquor licenses.
- 13.7035 Consideration of On-sale liquor licenses and establishments shall include, but not limited to, the following factors:
- a. Detailed floor plan
  - b. A safety plan which addresses fires, severe weather, emergency response and general safety issues
  - c. An operation plan which includes, proposed hours and days of operation, types of services provided, types of activities associated with business and security arrangements
  - d. Proof of adequate insurance for proposed business
  - e. Fire Marshall's certification that all plans for new and existing buildings conform to local fire codes. Inspection by Fire Marshal, after building is constructed or for existing buildings, which certifies the building meets all applicable fire codes.
  - f. Approval from other applicable local, State or Federal agencies.
  - g. Resolution of the Board of the township in which the building will be constructed, supporting the proposed establishment.

- h. Resolution of the City Council, if the building will be constructed within 2 miles of its incorporated limits, supporting the proposed establishment.
- I. Favorable recommendation by both the county attorney and sheriff.
- j. The applicant shall post and maintain a surety bond in the amount of \$1,000 naming Polk County Auditor-Treasurer as bond holder or other amount as established by resolution, from time to time. If license is revoked for violations of either the liquor license or C.U.P., the bond shall be forfeited.

13.7036 Frontage and access requirements shall include, but are not limited to:

- a. Frontage shall be on a public highway or road
- b. Primary access shall be from a public highway or road
- c. All accesses, approaches or frontage roads shall be approved by the appropriate road authority.
- d. Traffic shall be forward moving at all times when accessing roadways.
- e. Line of sight. Traffic should be able to enter or exit premises in a safe manner. Unobstructed view of the highway in each direction for 3 mile shall be required.
- f. The property the building is constructed on shall not access onto a secondary road, which may pose a safety hazard. Safety hazards may include, but are not limited to, uncontrolled railroad crossings, blind corners or major highway intersections, in close proximity or inadequate road capacity for proposed use.

13.7037 Parking and loading space.

- a. Parking and loading shall conform to the applicable standards listed in 12.2000.
- b. Sidewalks and approaches shall be paved.
- c. Parking lot shall be a minimum of 25' from any lot line.

13.7038 Prohibited uses. The following are prohibited activities or uses in conjunction with liquor establishments.

- a. Adult entertainment. Adult entertainment shall include, but not be limited to, exotic dancing, obscene performance, nudity or actual or simulated

sexual conduct.

- b. Sale of liquor in any location other than licensed premises.
- c. Change locations of establishment without making application for, and obtaining new license.
- d. Other activities deemed unsafe or not in the best interest of the public by the County when in conjunction with liquor establishments.

13.7039 Gambling prohibited. No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in Minnesota Statutes 349.30, or permit gambling therein, except:

- a. Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under Minnesota Statutes 349A.
- b. Raffles may be conducted within the licensed premises as allowed in Minnesota Statutes 349A.
- c. Bingo / Paddle ticket cards and/or Tipboard/Pull-tab tickets may be purchased and sold within the licensed premises as authorized by the Gambling Control Board under Minnesota Statutes 394.

13.7040 Off-sale liquor establishments. Subject to the following regulations:

- a. Any applicant for an off-sale or an on-sale and off-sale liquor license must possess at the time of application, an on-sale liquor license which is in effect for the business location for which the off-sale license is intended.

13.7050 Other establishments which intend to sell alcoholic beverages in conjunction with the primary use of the building, for which an on-sale or off-sale license is not applied, shall be subject to the following requirements:

13.7051 A wine, beer or malt liquor license shall be applied for, as applicable, prior to the C.U.P. hearing. If a C.U.P. is granted, it is contingent upon approval of all applicable liquor licenses.

13.7052 These establishments shall meet all applicable federal, state or local statutes, rules or regulations for the primary use of the building.

13.7060 Liquor license applications/fees.

13.7061 All completed liquor license applications shall be made to the County Auditor-Treasurer. The County Auditor-Treasurer shall present completed

applications to the Board for consideration at the next regularly scheduled meeting.

13.7062 Fees for liquor license applications, as defined in Sect. 3.0503, are set by, and may be amended from time to time by resolution of the Board, as necessary. In accordance with Minnesota Statutes 340A.408, the County shall mail notice to all affected licensees at least 30 days before the date set for the hearing to amend liquor license fees. Liquor license fees shall be paid to the County Auditor-Treasurer at the time of application. In the event of denial of an off-sale liquor application, \$100 of the liquor license application fee shall be non-refundable.

13.8000 LOT, YARD, ACCESS AND HEIGHT REQUIREMENTS.

13.8010 Lot requirements. All lots created shall conform to the following requirements, unless modified by Section 17 or Section 18.

13.8020 Stormwater management. Impervious surface coverage of lots must not exceed 25 percent of the lot area.

13.8100 All new lots except those created for conditional uses. Minimum of one and one half acres.

13.8200 Conditional uses. Minimum lot size shall be as stipulated in the criteria for each Conditional Use Permit. If no minimum is stipulated, the minimum shall be one and one half acres.

13.8300 Lot configuration for new lots.

13.8310 Minimum width - 125 feet with 125 feet of frontage on an existing public road. The minimum width must be maintained for the entire depth of the lot except where the lot is located on a cul de sac, or is created as a Flag Lot as specified in Section 22.3300.

13.8320 Minimum lot depth - 125 feet.

13.8330 Width to depth ratio. Depth of lot shall not exceed 5 times the width. Lots of more than 10 acres shall meet this requirement or have a minimum road frontage of at least 500 feet, whichever is less restrictive.

13.8400 Yard requirements. All yard requirements shall be measured from the lot line except as modified in 13.8630 below. All yards abutting a public road shall be considered front yards.

13.8410 Side yard requirement - 15 feet.



- 13.8420 Rear yard requirement - 15 feet.
- 13.8430 Front yard requirement -
- 13.8431 Public right-of-way lines shall be the lot line for measuring front yard requirements.
- 13.8432 There shall be a front yard setback of 100 feet on all State, Federal, County, and County State Aid Highways.
- 13.8433 There shall be a front yard setback of 35 feet on all other public right-of-ways.
- 13.8500 Administrative alteration of setbacks: The setbacks from right-of-way lines may be reduced by the Zoning Administrator to 50% of the distance specified in 13.8432 and 13.8433 if the following conditions are met:
- a. A hardship must be indicated by the applicant.
  - b. The structure will not interfere with the construction or repair of adequate water supply and sewage treatment facilities.
  - d. If it is determined that the application complies with all other requirements of the ordinance, the application shall be referred to the Township Board, the ten closest property owners, and the affected road authority for review and comment, the notified parties shall have thirty days to respond.
  - e. Upon affirmative response from those notified, the administrator shall reduce the setback requirement.
  - f. Adverse response from those notified shall cause the application to be considered at the next appropriate Board of Adjustment meeting as a variance.
- 13.8600 Access requirements. All access to a public road shall meet the following standards:
- 13.8610 Field access drives. Not regulated by this Ordinance and not to be considered in applying the provisions of this Ordinance.
- 13.8620 For permitted uses and residential conditional uses. Access shall be combined if possible or meet the minimum requirements stated in the Comprehensive Plan.

13.8630 For conditional uses other than residential. Access shall conform to the standards in the Comprehensive Plan.

13.8700 Height regulations. All structures shall have a maximum height of 35 feet except those structures specifically excepted by 12.4130 and subject to the provisions thereof.

## SECTION 14 "V" VILLAGE DISTRICT REGULATIONS

This section will apply to the unincorporated villages as defined by its recorded townsite plat at the Polk County Recorders Office, and all changes to these plats from May 5, 1992, the enactment of the Polk County countywide Zoning Ordinance. **The villages are as follows: Sherack, Mallory, Rindahl, Maple Bay, Gentilly, Eldred, Euclid, Angus, and Tabor.**

14.1000 PERMITTED PRINCIPAL USES. The following are permitted principal uses in the village district unless modified by Sections 17 and 18.

14.1010 Single family detached dwellings.

14.1020 Churches, including related structures and activities located on the same site which are an integral part of the church proper and a single family home for persons related to the religious functions. All structures shall be located at least 50 feet from any lot line.

14.1030 Cemeteries.

14.1040 Signs, as regulated in Section 12.

14.1050 Local government administrative and service buildings.

14.2000 ANIMAL REGULATIONS.

14.2100 Only dogs, cats, chickens, and other animals customarily kept as pets are permitted. Chickens will be subject to the following criteria:

- A. No more than 12 chickens will be allowed.
- B. They must have a shelter, subject to building regulations of Section 14, and an open lot area.
- C. They must be confined on the property.
- D. Roosters will be prohibited.

14.3000 BUILDING ELIGIBILITY REGULATIONS FOR STRUCTURES. A new building site(s) may be established or a site containing an existing structure may be subdivided only if the following provisions are met:

14.3010 In no case shall a lot be subdivided in a manner that would deprive the remaining parcel of the required frontage on a public road unless the remaining parcel will be attached to an abutting parcel with road frontage.

14.3020 Building sites shall be permitted only as outlined in this section.

14.3030 Any lot subdivided that contains an existing building(s) must meet all the

requirements of Section 14.8000, except setbacks from lot lines that are not changed when the new lot is created.

- 14.3040 Any lot subdivided or used for a building site must have frontage on a public road and meet all the requirements of Section 14.8000.
- 14.3100 A building eligibility is available pursuant to one of the following provisions:
  - 14.3110 Lots of Record.
    - 14.3111 A lot of record existing as of 3 September, 1971 may be utilized for a single family detached dwelling regardless of size provided the provisions of this section are met.
    - 14.3112 A lot of record created between September 3, 1971 and the date of enactment of this ordinance may be utilized for a building site provided the lot is at least one acre and the provisions of this section are met.
    - 14.3113 The lot of record has a minimum of 33 feet of frontage on a public road.
    - 14.3114 The building can meet the provisions of 8.2000.
    - 14.3115 The lot of record has suitable soils and adequate area to permit the installation of conforming water supply and sewage treatment facilities in accordance with Section 21.000 of this Ordinance.
  - 14.3120 In the case where a lot of record does not have a building eligibility pursuant to 14.3110 because of the lack of frontage on a public road, a building eligibility shall be available provided:
    - 14.3121 The lot of record is contiguous to another parcel having public road frontage. For the purposes of this section "contiguous parcels" shall not include parcels entirely separated by a road, railroad, or publicly owned trail, nor shall parcels touching at a single point be considered contiguous.
    - 14.3122 The lot of record has a minimum area of 1 acres.
    - 14.3123 The lot of record is combined legally and for taxing purposes with the contiguous parcel.
    - 14.3124 The building eligibility is utilized somewhere on the parcel resulting from the combination of parcels described in 14.3123

above and any new lots created conform to the requirements of this ordinance.

- 14.3130 A minimum of one acre containing an existing structure may be subdivided from a lot of record under the following conditions:
  - 14.3131 The lot subdivided has frontage on a public road and meets all the requirements of Section 14.8000 except setbacks from lot lines that are not changed when the new lot is created.
  - 14.3132 The remaining portion of the lot of record has a reasonable use and has frontage on a public road and meets all the requirements of Section 14.8000 or is attached to an adjacent parcel.
- 14.4000 PERMITTED ACCESSORY USES. Within the village district the following uses shall be permitted accessory uses:
  - 14.4100 One detached garage for the storage of passenger vehicles per lot (which is counted toward the total of two accessory structures allowed).
  - 14.4200 Accessory structures on parcels of less than 10 acres: Accessory structures (in addition to existing buildings not suitable for storage) shall be permitted on parcels of less than 10 acres as follows:
    - 14.4210 The following standards shall apply to accessory structures to be located upon parcels of two acres or less:
      - 14.4211 The maximum size shall be 1200 sq. ft. Two accessory structures having a combined total of 1200 sq. ft. Are permitted. Additions to existing accessory structures will be permitted only in cases where the total square footage after the addition will not exceed 1200 sq. ft.
      - 14.4212 Maximum sidewall height shall be 12 feet.
      - 14.4213 Maximum total height from average grade shall be 17 feet.
    - 14.4220 On parcels larger than two acres up to and including five acres, two accessory structures having a combined total of 2500 sq. ft. are permitted.
    - 14.4230 On parcels over five acres two accessory structures having a combined total of 4000 sq. ft. are permitted.
    - 14.4240 All accessory structures constructed under this section must meet the following criteria:

- 14.4241 Location shall be in accordance with 14.8000.
- 14.4242 The structure shall be used only by the occupant(s) of the residence. The structures may be used for: Storage of household goods, recreational vehicles and equipment, personal vehicles, maintenance and repair of personal vehicles and equipment, a shop or similar activity, keeping of animals and appurtenant equipment and supplies, and as otherwise regulated by this ordinance.
- 14.4300 Home Occupations. It is the intent of this subdivision to provide for the operation of a business or profession in the home or with the home as a base of operations as an accessory use provided that the operation of the home occupation is secondary to the use of the home, land, and any accessory structures for residential purposes. The home occupation shall be conducted principally by the members of the family occupying the dwelling.
- 14.4301 Conduct of the home occupation shall not require alterations to the exterior of the residence or change the residential character thereof.
- 14.4302 No more than two employees other than members of the family living on the premises may be employed on the premises.
- 14.4303 Signs as regulated by Section 12, specifically 12.1037.
- 14.4304 No outdoor display of goods.
- 14.4305 Any additional need for parking generated by the home occupation shall be met by off-street parking.
- 14.4306 All home occupations shall conform to Section 12.
- 14.4307 Should the home occupation be repair, the items repaired shall be of a size or nature that repair can occur within the home or accessory structure.
- 14.4308 No outside storage is permitted.
- 14.4309 The home occupation shall not generate sewage of a nature or type that cannot be treated by a permitted on-site sewage system in conformance with Section 21.0000 of this Ordinance.
- 14.4400 Decorative Landscaping Features.
- 14.4500 Signs as Regulated by Section 12.
- 14.4600 Private Tennis Courts.

- 14.4700 Private Swimming Pools:
- 14.4701 Shall not be located under any power line nor in any front yard.
  - 14.4702 Shall be located so that water from the back flushing of a filter or draining the pool is naturally filtered before reaching a stream or lake.
  - 14.4703 Shall be located so that water from the back flushing of a filter or draining the pool will not flow on neighboring property unless there is written permission from the adjoining property owner(s) and said agreement is recorded.
  - 14.4704 Shall not require a Conditional Use Permit as long as requirements found in 18.3000 are followed.
- 14.4800 Buildings, structures or uses temporarily located for purposes of construction on the premises for a period of time not to exceed the time normally necessary for construction.
- 14.4900 Roadside stands for sale of horticultural products, provided off street parking is available.
- 14.5000 Residential equipment and functions unless specifically regulated by this Ordinance or other ordinance.
- 14.5100 Day Care facilities serving 10 or fewer persons and residential facilities serving six or fewer persons provided the activity is licensed by the State or other appropriate regulating agency and is located in a single family home.
- 14.5200 Construction of permitted structures and filling and excavation appurtenant thereto upon the approval of an erosion control plan and the issuance of all required permits.
- 14.5300 Existing structures may be utilized for the compensated storage of boats, recreational vehicles, and motor vehicles, provided:
- 14.5301 The storage activity is clearly incidental to the principal use of the property.
  - 14.5302 In cases where, because of a subdivision of land occurring prior to the adoption of this provision, an existing structure is located on a parcel of land that does not have an existing principal use, a Conditional Use Permit may be issued pursuant to 14.7012.

14.5400 Composting

- 14.5410 Backyard Composting is allowed subject to the following requirements:
- a. Composting piles or containers shall be located and designed so that seepage from the compost will not run off into public or private roads, storm sewers, drainage ditches, streams or lakes.
  - b. No compost pile or container may be located within the yard setback requirement, or closer than fifty (50) feet to any residential dwelling, except the dwelling on the property at which the compost container is located.
  - c. No compost pile or container may be placed within twenty (20) feet of any body of water or state protected wetland.
  - d. Acceptable materials for a backyard compost site are those materials defined by Minnesota Rules 7035.0300 Subp. 7.
- 14.5450 Small Composting Site: permitted use subject to the following requirements:
- a. Must not exceed 120 cubic yards on site at any one time.
  - b. Composting sites shall be located and designed so that seepage from the compost will not run off into public or private roads, storm sewers, drainage ditches, streams or lakes.
  - c. No compost site may be located within the yard setback requirement, or closer than fifty (50) feet to any residential dwelling, except the dwelling on the property at which the compost site is located.
  - d. No compost site may be placed within twenty (20) feet of any body of water or area designated as flood plain, shoreland, or state protected wetland according to Minnesota Rules 7035.2555.
  - e. Acceptable materials for a small compost site are those materials defined by Minnesota Rules 7035.0300 Subp. 99a.
  - f. All composting must occur in a controlled manner to minimize the creation of nuisances. Compost materials shall be layered, aerated, moistened, turned and managed to promote effective decomposition of the materials in a safe, secure and sanitary manner.



- g. When the composting process is finished and the compost resembles a soil-like humus or mulch material, it shall be used as a soil amendment. Finished or unfinished compost shall not be used in a manner causing a nuisance. Compost made with poultry litter must be used on site.

14.6300 Storage of more than one unlicensed passenger vehicles is subject to the following conditions:

14.6301 Storage shall not be located within any required yard.

14.6302 Screening shall be provided according to Section 12.4100 to block the view of the storage from any public right of way.

14.6303 Hazardous materials, including oil, antifreeze, and lead acid batteries, shall be managed in compliance with all Federal, State, and Local rules and regulations.

14.7000 **CONDITIONAL USES.** Land in the village district shall be used for any of the following purposes only upon the issuance of a Conditional Use Permit.

14.7010 Accessory structures:

- a. Accessory structures of over 2,500 sq. ft. on parcels greater than two acres and less than five acres.
- b. Accessory structures over 4000 sq. ft. on parcels over five acres, and less than 10 acres.
- c. A new accessory structure on a parcel of less than 10 acres that would bring the total square footage of accessory structures to over that permitted in Section 14.4200.

14.7020 Business, provided:

- a. The business shall be compatible with the neighborhood, and not create a nuisance.
- b. An operational plan is established and all activities are conducted in accordance with the operational plan.
- c. Days and hours of operation shall be determined by the zoning administrator or the County Board.

- d. The business will comply with all applicable local, state, and federal laws, rules, regulations and ordinances.
- e. Outdoor storage of machinery or materials may be allowed as an accessory use provided they are located to the rear of the structure, fenced, and adequately screened from adjacent land uses and public roadways.
- f. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the Conditional Use Permit.
- g. All hazardous materials shall be handled in a appropriate manner.
- h. Off-street parking shall be provided for all employees and patrons of the business.
- i. Signage shall conform to Section 12, specifically 12.1050.
- j. The applicant and/or property owner shall permit the County to inspect the property at anytime. Annual Administrative Review.
- k. A certificate of insurance and/or a performance surety may be required.

14.7030 Convenience Stores provided that access is from a paved road.

14.7040 Crop storage as a principal use subject to the following conditions:

- a. Access is approved by the appropriate road authority.
- b. Sufficient area is provided so that trucks loading or unloading, or trucks waiting to load or unload, are not within the public road right-of-way.

14.7050 Public schools or schools which teach a similar curriculum, provided the school has the approval of the State Department of Education, and no building is located within 100 feet of any lot line.

14.7060 The operation of through trains, but not including switching, storage or other railroad operations.

14.7070 Day nurseries accommodating more than 10 children provided appropriate licenses and/or permits are granted by the State or other affected agencies.

- 14.7080 Public parks provided such facilities are in compliance with Polk County Comprehensive Plan.
- 14.7090 Historical sites and activities as recognized by the State Historical Society.
- 14.7100 Private or governmentally owned or operated sites for: solid waste, transfer station, recycling facility, provided the following standards are met:
- a. The facility/operation is in compliance with the Polk County Solid Waste Ordinance and any other applicable ordinance.
  - b. The facility/operation is in compliance with the adopted Comprehensive Plan and the Solid Waste Management Plan.
  - c. Any required environmental assessment documents have been developed and required review procedures have been completed.
  - d. Any required County, State, or Federal licenses have been issued.
  - e. The facility/operation is in compliance with all applicable Minnesota Pollution Control Agency and U.S. Environmental Protection Agency rules and regulations.
  - f. An operational plan shall be developed and the activity conducted in accordance with the operational plan.
  - g. The permit shall be subject to annual renewal.
- 14.7110 Recreational activities. Activities conducted on a permanent, seasonal or scheduled basis subject to the following criteria:
- a. A certificate of insurance and/or a performance surety may be required.
  - b. If sanitary facilities are necessary, a conforming on-site system in compliance with Section 21.0000 of this Ordinance can be installed.
  - c. An operational plan is established and all activities are conducted in accordance with the operational plan.
  - d. A stipulation is made in the permit as to the number of persons to be using the facility at any one time.
  - e. Any type of special event that will attract or involve more than the

number of people stipulated in d. above shall require approval of the County Board.

f. The permit shall be subject to annual Administrative Review.

14.7120 Retail nurseries provided:

- a. The nursery is located on a parcel of two acres or more.
- b. Retail facility shall not be located within 100 feet of any residence except that of the owner.
- c. No more than 10% of the retail business volume shall be non-horticultural items.
- d. Operation shall be in accordance with an approved plan which shall become part of the permit.
- e. Access is approved by the appropriate road authority.

14.7130 Use of existing structures for compensated storage purposes. A permit may be issued for the use of existing structures for storage purposes in cases where the storage use cannot be considered an accessory use due to a subdivision of land that occurred prior to the adoption of 14.5300. The permit shall provide for the use of the structure(s) as provided in 14.5300 and shall include, at a minimum, conditions reflecting the requirements of 14.5301.

14.7140 School bus service. The operation, maintenance and storage of more than two school buses provided the following criteria are met:

- a. Access must be approved by the appropriate road authority.
- b. Adequate parking must be provided for all employees coming to the site.
- c. Sewage must be treated by a conforming on-site sewage system in accordance with Section 21.0000.
- d. The business is operated in conformance with the conditions of an approved plan of operation and the applicable provisions of Section 12.

14.7150 An accessory structure in conjunction with a home occupation for uses other than storage of equipment used off the site provided:

- a. The structure is used only by members of the immediate family living in the home and the employee(s) of the home occupation.
- b. There is a demonstrated need to use the accessory structure as a part of the home occupation.

14.7160 Public swimming pools subject to the following criteria:

- a. Not located under any power lines.
- b. Water from the back flushing of filters or draining the pool is naturally filtered before reaching a stream or lake.
- c. Water from the back flushing of filters or draining the pool will not flow on neighboring property unless there is written permission from the affected property owner(s) and said agreement is recorded.
- d. A certificate of insurance and/or a performance surety may be required.
- e. A conforming on-site sewage treatment system in accordance with Section 21.0000 can be installed.
- f. A stipulation is made in the permit as to the number of person to be using the facility at any one time.
- g. The permit shall be subject to annual Administrative Review.

14.7170 An additional detached single family or multifamily dwelling on a parcel of at least 2 acres subject to the following criteria:

- a. If the structure is permanent it must be located so that the parcel can be subdivided in compliance with 14.8000.
- b. The additional dwelling must be served by its own conforming septic system in accordance with Section 21.0000.
- c. If the structure is temporary it shall not require the creation of a separate well.

14.7180 Contractors yards under the following conditions:

14.7181 Employees report to the site only for the purpose of picking up

equipment and supplies, for general equipment maintenance, or work in the office.

- 14.7182 An office may be maintained on the site either in a storage building or in the home. The maximum number of office employees in addition to family members residing in the residence on the site shall be three.
- 14.7183 Supplies stored on site are those used during the ordinary course of the construction business. The building or storage area shall not be used as a warehouse.
- 14.7184 The size of a contractors yard storage building(s) shall be limited by the size of the parcel of land. Building area of 1000 sq. ft. per acre will be permitted with the maximum size being 5000 sq. ft. even for parcels larger than five acres.
- 14.7185 Outside storage is screened from view of the road, any neighboring residences, and a lake if the storage area is in the shoreland. Screening shall be as provided in Section 12.4100. A maximum of 25% of the area of the contractors yard parcel of land may be used for screened outdoor storage.
- 14.7186 Operation shall be in accordance with the plan of operation submitted as a part of this permitting process. The plan of operation shall be attached to and become part of the permit.
- 14.7187 An application is submitted which includes the following:
- 14.7188 A plot plan showing:
- a. Size of parcel.
  - b. Location and size of all building on the parcel.
  - c. Location and size of any area of outdoor storage any type of screening used.
  - d. Location and distance of neighboring residences.
- 14.7189 An in depth description of the contracting business. The description shall contain at a minimum:
- a. The number of employees reporting to the site.

- b. Type of equipment stored on the site.
- c. Type and amount of materials and supplies stored on the site.
- d. Provision for maintenance of equipment.
- e. Provision for sanitary facilities for workers.
- f. Types of activities conducted on the site.
- g. Location of the office.

14.8000 LOT, YARD, ACCESS AND HEIGHT REQUIREMENTS.

14.8010 Lot requirements. All lots created shall conform to the following requirements, unless modified by Section 17 or Section 18.

14.8100 All new lots except those created for conditional uses. Minimum of one acre.

14.8200 Conditional uses. Minimum lot size shall be as stipulated in the criteria for each Conditional Use Permit. If no minimum is stipulated, the minimum shall be one and one half acres.

14.8300 Lot configuration for new lots.

14.8310 Minimum width - 125 feet with 125 feet of frontage on an existing public road. The minimum width must be maintained for the entire depth of the lot except where the lot is located on a cul de sac.

14.8320 Minimum lot depth - 125 feet.

14.8330 Width to depth ratio. Depth of lot shall not exceed 5 times the width. Lots of more than 10 acres shall meet this requirement or have a minimum road frontage of at least 500 feet, whichever is less restrictive.

14.8400 Yard requirements. All yard requirements shall be measured from the lot line except as modified in 14.8630 below. All yards abutting a public road shall be considered front yards.

14.8410 Side yard requirement - 10 feet.

14.8420 Rear yard requirement - 30 feet.

14.8430 Front yard requirement -

- 14.8431 Public right-of-way lines shall be the lot line for measuring front yard requirements.
  - 14.8432 There shall be a front yard setback of 50 feet on all State, Federal, County, and County State Aid Highways.
  - 14.8433 There shall be a front yard setback of 35 feet on all other public right-of-ways.
- 14.8600 Access requirements. All access to a public road shall meet the following standards:
- 14.8610 Field access drives. Not regulated by this Ordinance and not to be considered in applying the provisions of this Ordinance.
  - 14.8620 For permitted uses and residential conditional uses. Access shall be combined if possible or meet the minimum requirements stated in the Comprehensive Plan.
  - 14.8630 For conditional uses other than residential. Access shall conform to the standards in the Comprehensive Plan.
- 14.8700 Height regulations. All structures shall have a maximum height of 35 feet except those structures specifically excepted by 12.4130 and subject to the provisions thereof.



## SECTION 15 "C" COMMERCIAL DISTRICT

- 15.1000 PERMITTED PRINCIPAL USES. The following are permitted principal uses in the Commercial District, unless modified by Sections 17 and 18.
- 15.1010 Commercial retail and personal service establishments.
  - 15.1020 Automobile and farm machinery repair facilities, provided that hazardous material management complies with Federal, State and Local regulations.
  - 15.1030 Gas stations, provided that hazardous material management complies with Federal, State and Local regulations.
  - 15.1040 Warehouses.
  - 15.1050 Commercial Agriculture as defined in 3.0170, except feedlots.
  - 15.1060 Medical, dental and eye clinics
  - 15.1070 Multi-family dwellings
  - 15.1080 Motor Vehicle Sales
  - 15.1090 Farm Machinery Sales
  - 15.1095 Small Compost Sites shall comply with all requirements in 13.5450.
- 15.2000 PERMITTED ACCESSORY USES. Within the Commercial District the following uses shall be permitted accessory uses:
- 15.2010 Accessory structures for storage of materials or goods sold, used, or produced in the principal structure.
  - 15.2020 Signs, as regulated in Section 12.
- 15.3000 CONDITIONAL USES. Land in the Commercial District shall be used for any of the following purposes only upon issuance of a Conditional Use Permit.
- 15.3010 Outside storage of materials, goods or equipment associated with the principal use.
  - 15.3020 Outside storage of materials, goods or equipment as a principal use.
  - 15.3025 Light manufacturing, provided there is no outside storage

of raw materials or wastes, and hazardous materials management is in compliance with Federal, State and Local regulations.

- 15.3030 Shopping Centers
  - 15.3035 Solid Waste Transfer and Recycling facilities.
  - 15.3040 On-sale or on-sale with off-sale liquor establishments shall comply with all requirements in 13.7030.
  - 15.3045 Liquor establishments other than On-sale or on-sale with off-sale liquor licenses shall comply with all requirements in 13.7050.
- 15.3050 Hotels, motels and trailer courts.
- 15.3060 Off-site signs subject to the requirements in Section 12, specifically 12.1080.
- 15.3070 On-site signs subject to the requirements in Section 12, specifically 12.1060.
- 15.3080 Hospital.
- 15.3090 Assisted living facilities and nursing homes.
- 15.3100 Outside storage of more unlicensed passenger vehicles than permitted in Section 12.7000.
- 15.4000 LOT, YARD, ACCESS, AND HEIGHT REQUIREMENTS
  - 15.4010 Lot Requirements. All lots created shall conform to the following requirements, unless modified by Section 17 or Section 18.
  - 15.4100 All new lots except those created for conditional uses; minimum of two acres.
  - 15.4200 Conditional uses. Minimum lot size shall be as stipulated in the criteria for each Conditional Use Permit. If no minimum is stipulated, the minimum shall be two acres.
  - 15.4300 Lot configuration for new lots without existing buildings.
    - 15.4310 Minimum width - 150 feet with 150 feet of frontage on an existing public road. The minimum width must be maintained for the entire depth of the lot except where the lot is located on a cul de sac.

- 15.4320 Minimum lot depth - 225 feet.
- 15.4330 Width to depth ratio. Depth of lot shall not exceed 5 times the width. Lots of more than 10 acres shall meet this requirement or have a minimum road frontage of at least 500 feet, whichever is less restrictive.
- 15.4400 Lot Configuration for new lots containing buildings existing at the time of subdivision.
  - 15.4410 When at all possible new lots containing buildings existing at the time of subdivision must meet the requirements of Section 15.4000.
- 15.4500 Lots of record.
  - 15.4510 Minimum road frontage is 100 feet.
  - 15.4520 Provisions of Section 8.2000 must be complied with.
- 15.4600 Yard requirements. All yard requirements shall be measured from the lot line. All yards abutting a public road shall be considered front yards.
  - 15.4610 Side yard requirement - 25 feet.
  - 15.4620 Rear yard requirement - 50 feet.
  - 15.4630 Front yard requirement - 100 feet from any public right-of-way.
- 15.4700 Access requirements. All access to a public road shall meet the following standards:
  - 15.4710 Field access drives. Not regulated by this ordinance and not to be considered in applying the provisions of this ordinance.
  - 15.4720 For permitted uses and conditional uses. Access shall be combined if possible or meet the minimum requirements stated in the Comprehensive Plan.
  - 15.4730 When an access is requested near the intersection of two roads the following shall apply:
    - 15.4731 On the road of higher classification, the access shall be no closer than 300 feet from the center of the proposed access to the center of the intersecting public road.
    - 15.4732 On the road of lower classification, the access shall be no closer than 150 feet from the center of the proposed access

to the center of the intersecting public road.

15.4733 At an intersection of two roads with the same functional classification, the road with the higher traffic volume shall be considered the road of higher classification.

15.4800 Height regulations. All structures shall have a maximum height of 35 feet except those structures specifically excepted by 12.4130 and subject to the provisions thereof.

## **SECTION 16 "I" INDUSTRIAL DISTRICT**

- 16.1000      **PERMITTED PRINCIPAL USES.** The following are permitted principal uses in the Industrial District, unless modified by Sections 17 and 18.
- 16.1010      Transportation terminals including air, rail and truck terminals, public garages and equipment yards.
  - 16.1020      Automobile and farm machinery repair facilities, provided that hazardous material management complies with Federal, State and Local regulations.
  - 16.1030      Gas stations, provided that hazardous material management complies with Federal, State and Local regulations.
  - 16.1040      Wholesaling, warehousing and terminal operations including those with the outdoor storage of materials such as: construction materials, lumber, machinery and equipment.
  - 16.1050      Heavy manufacturing, provided hazardous materials management is in compliance with Federal, State and Local regulations.
  - 16.1060      Commercial Agriculture as defined in 3.0170, except feedlots.
  - 16.1080      Liquor establishments other than On-sale or on-sale with off-sale liquor licenses shall comply with all requirements in 13.7050.
  - 16.1090      Small Compost Sites shall comply with all requirements in 13.5450.
- 16.2000      **PERMITTED ACCESSORY USES.** Within the Industrial District the following uses shall be permitted accessory uses:
- 16.2010      Accessory structures for storage of materials or goods sold, used, or produced in the principal structure.
  - 16.2020      Signs, as regulated in Section 12.
- 16.3000      **CONDITIONAL USES.** Land in the Industrial District shall be used for any of the following purposes only upon issuance of a Conditional Use Permit.
- 16.3010      Reduction/recycling facility.
  - 16.3020      Waste treatment, storage, and handling facilities, including municipal sewage treatment, transfer and recycling facilities, waste composting sites.
  - 16.3030      Industrial parks.

- 16.3040 Structures exceeding the height regulation specified in 16.4800.
- 16.3050 Off-site signs subject to the requirements found in Section 12, specifically 12.1080.
- 16.3060 On-site signs subject to the requirements found in Section 12, specifically 12.1060.
- 16.3070 Motor Vehicles Sales
- 16.3080 Farm Machinery Sales
- 16.3090 Outside storage of more than three unlicensed passenger vehicles
  
- 16.4000 LOT, YARD, ACCESS, AND HEIGHT REQUIREMENTS
  - 16.4010 Lot Requirements. All lots created shall conform to the following requirements, unless modified by Section 17 or Section 18.
  - 16.4100 All new lots except those created for conditional uses; minimum of two acres.
  - 16.4200 Conditional uses. Minimum lot size shall be as stipulated in the criteria for each Conditional Use Permit. If no minimum is stipulated, the minimum shall be two acres.
  - 16.4300 Lot configuration for new lots without existing buildings.
    - 16.4310 Minimum width - 150 feet with 150 feet of frontage on an existing public road. The minimum width must be maintained for the entire depth of the lot except where the lot is located on a cul de sac.
    - 16.4320 Minimum lot depth - 225 feet.
    - 16.4330 Width to depth ratio. Depth of lot shall not exceed 5 times the width. Lots of more than 10 acres shall meet this requirement or have a minimum road frontage of at least 500 feet, whichever is less restrictive.
  - 16.4400 Lot configuration for new lots containing buildings existing at the time of subdivision.
    - 16.4410 When at all possible new lots containing buildings existing at the time of subdivision must meet the requirements of Section 16.4000.
  - 16.4500 Lots of record.

- 16.4510 Minimum road frontage is 100 feet.
- 16.4520 Provisions of Section 8.2000 must be complied with.
- 16.4600 Yard requirements. All yard requirements shall be measured from the lot line. All yards abutting a public road shall be considered front yards.
  - 16.4610 Side yard requirement - 25 feet.
  - 16.4620 Rear yard requirement - 50 feet.
  - 16.4630 Front yard requirement - 100 feet from the lot line subject to the following rules:
    - 16.4631 The right-of-way line shall be the lot line for measuring yard requirements.
    - 16.4632 The right-of-way line shall be 2 of the right-of-way distance specified in 13.8500 and shall be measured from the center line of the road built.
    - 16.4633 If an actual right-of-way is wider than shown in 13.8500, the yard shall be measured from the actual right-of-way line.
- 16.4700 Access requirements. All access to a public road shall meet the following standards:
  - 16.4710 Field access drives. Not regulated by this ordinance and not to be considered in applying the provisions of this ordinance.
  - 16.4720 For permitted uses and conditional uses. Access shall be combined if possible or meet the minimum requirements stated in the Comprehensive Plan.
  - 16.4730 When an access is requested near the intersection of two roads the following shall apply:
    - 16.4731 On the road of higher classification, the access shall be no closer than 300 feet from the center of the proposed access to the center of the intersecting public road.
    - 16.4732 On the road of lower classification, the access shall be no closer than 150 feet from the center of the proposed access to the center of the intersecting public road.
    - 16.4733 At an intersection of two roads with the same functional

classification, the road with the higher traffic volume shall be considered the road of higher classification.

16.4800 Height regulations. All structures shall have a maximum height of 45 feet except those structures specifically excepted by 12.4130 and subject to the provisions thereof.



## SECTION 17 FLOODPLAIN OVERLAY DISTRICT

- 17.0000 FLOODPLAIN OVERLAY DISTRICT
- 17.0100 Warning and Disclaimer of Liability: This Section 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 Section shall not create liability on the part of Polk County or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.
- 17.0200 Elevation and Flood-Proofing Certification. As-built elevations for elevated or flood-protected structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 4.3600 of this Ordinance.
- 17.0300 Uses specified in this section are allowed if they are in compliance with the underlying Zoning District.
- 17.3000 DISTRICTS:
- 17.3010 FLOODWAY DISTRICT. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in Section 11.2030.
- 17.3020 FLOOD FRINGE DISTRICT. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in Section 11.2030.
- 17.3030 GENERAL FLOODPLAIN DISTRICT. The General Floodplain District shall include those areas designated as unnumbered A Zones, AH Zones and numbered A Zones where a Floodway/Floodfringe is not shown on the Flood Insurance Rate Map adopted in Section 11.2300.
- 17.3040 DETERMINING FLOODPLAIN ELEVATIONS. Polk County may, at its discretion, use any additional information for making land use and permit decisions in any of the aforementioned Districts. Additional information includes, but is not limited to, the US Army Corps of Engineers 2003 Regional Red River Flood Assessment Report – Wahpeton, ND/Breckenridge, MN to Emerson, Manitoba, or the document titled “January 2007 Flood Insurance Study – Grand Forks, ND/East Grand Forks, MN”.
- 17.4000 FLOODWAY DISTRICT (FW)

17.4100 Permitted Uses:

- 17.4110 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- 17.4120 Industrial-commercial loading areas, parking areas, and airport landing strips.
- 17.4130 Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- 17.4140 Residential lawns, gardens, parking areas, and play areas.

17.4200 Standards for Floodway Permitted Uses:

- 17.4210 The use shall have a low flood damage potential.
- 17.4220 The use shall be permissible in the underlying zoning district.
- 17.4230 The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

17.4300 Conditional Uses:

- 17.4310 Structures accessory to the uses listed in 17.4100 above and the uses listed in 17.4320 - 17.4380 below.
- 17.4320 Extraction and storage of sand, gravel, and other materials.
- 17.4330 Marinas, boat rentals, docks, piers, wharves, and water control structures.
- 17.4340 Railroads, streets, bridges, utility transmission lines, and pipelines.
- 17.4350 Storage yards for equipment, machinery, or materials.
- 17.4360 Placement of fill.
- 17.4370 Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 17.9030 of this Ordinance.

17.4380 Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

17.4400 Standards for Floodway Conditional Uses:

17.4410 All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

17.4420 All floodway Conditional Uses shall be subject to the procedures and standards contained in Section 7 of this Ordinance.

17.4430 The Conditional Use shall be permissible in the underlying zoning district.

17.4440 Fill:

17.4441 Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

17.4442 Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

17.4443 As an alternative, and consistent with 17.4442 immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Board of County Commissioners has received an appropriate plan which assures the removal of the materials from the floodway prior to a flood event, based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

17.4450 Accessory Structures:

17.4451 Accessory structures shall not be designed for human habitation.

- 17.4452 Accessory structures shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
- a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
  - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- 17.4453 Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards, as appropriate:
- a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
  - b. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood-proofed.
- 17.4454 Any new structure erected within the AH Zone shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structure.
- 17.4460 Storage of Materials and Equipment:
- 17.4461 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.
- 17.4462 Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Planning Commission.
- 17.4470 Structural works for flood control that will change the course, current or

cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

17.4480 A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

17.5000 FLOOD FRINGE DISTRICT (FF)

17.5100 Permitted Uses:

17.5110 Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). All Permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" listed in Section 17.5200 and the "Standards for all Flood Fringe Uses" listed in Section 17.5500.

17.5200 Standards for Flood Fringe Permitted Uses:

17.5210 All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Base Flood Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

17.5220 As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 576 square feet for the outside dimension at ground level may be internally flood-proofed in accordance with Section 17.4453.

17.5230 The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with Section 17.5210 of this ordinance.

17.5240 The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

17.5250 The provisions of Section 17.5500 of this Ordinance shall apply.

17.5300 Conditional Uses:

17.5310 Any structure that is not elevated on fill or flood-proofed in accordance with Section 17.5210-17.5220 or any use of land that does not comply with the standards in Section 17.5230-17.5240 shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Sections 17.5400-17.5500 and Section 7 of this Ordinance.

17.5400 Standards for Flood Fringe Conditional Uses:

17.5410 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

17.5411 Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

17.5412 Specific Standards for Above-grade, Enclosed Areas:  
Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

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

in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

- 17.5420 Basements, as defined by Section 3.0060 of this Ordinance, shall be subject to the following:
- 17.5421 Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
  - 17.5422 Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood-proofed in accordance with Section 17.5430 of this Ordinance.
- 17.5430 All areas of non residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.
- 17.5440 When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Planning Commission. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- 17.5450 Storage of Materials and Equipment:
- 17.5451 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.

- 17.5452 Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Planning Commission.
- 17.5460 The provisions of Section 17.5500 of this Ordinance shall also apply.
- 17.5470 Within farmstead ring levee systems, as defined in (c) below, agricultural structures exceeding 576 square feet in size may be constructed with the lowest floor below the regulatory flood protection elevation provided the structure is internally wet floodproofed as outlined in the following floodproofing and administrative provisions:
- (a) For the purposes of this Section, agricultural structures shall be defined as structures related to the growing of crops or raising of livestock. This definition of agricultural structures shall include barns, machine sheds, storage buildings, and garages for the storage of farming machinery and equipment. This definition of agricultural structure does not include a principal or accessory structure to a residential, commercial, or other use not needed for the growing of crops or raising of livestock and shall specifically not include a structure used for human habitation or for parking of non farming related vehicles for the human occupants of structures within the farmstead ring levee system.
  - (b) For the purposes of this Section, habitable space (room) is space in a structure used for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility spaces and similar areas, are not considered habitable space. Further, no space within an agricultural structure constructed in accordance with this Section with a floor below the regulatory flood protection elevation shall be used as habitable space.
  - (c) Agricultural structures with the lowest floor below the regulatory flood protection elevation authorized by this Section must be located within the confines of a ring levee system meeting the following criteria:
    - (1) The ring levee system must have been constructed as part of a cost share program of a watershed district established pursuant to Minnesota Statute, Chapter 103D;
    - (2) A registered professional engineer or qualified watershed district staff person must certify that the farmstead ring levee system was constructed in accordance with the design



criteria specified by the watershed district as a condition of state/local cost share funding;

- (3) The low point of the ring levee system must be at a minimum of at least two (2) feet above the flood of record or one (1) foot above the 100-year flood level, whichever is the greater of the two. A registered professional engineer or land surveyor must establish the elevation of the low point of the ring levee system in a datum as specified by the county. A qualified hydrologist, watershed district staff person, or registered professional engineer must establish the 100-year flood elevation and flood of record elevation for the location of the farmstead ring levee system.

(d) In addition to the permitting and administrative language in this ordinance, the following additional provisions apply to this Section:

- (1) The application materials for the Conditional Use Permit must clearly indicate the floodproofing classification that is being proposed and shall include a set of floodproofing plans and specifications prepared by a registered professional engineer or architect.
- (2) The conditional use permit issued by the community must specify the floodproofing classification that is being authorized and the regulatory flood protection elevation for the site.
- (3) After construction of an agricultural structure authorized by this Section, the applicant shall be required to provide certification by a registered professional engineer or architect that the structure was constructed in accordance with the building/ floodproofing specifications authorized by Section 17.5470 of this Ordinance. Upon completion, the community must issue a certificate of zoning compliance prior to the use of the structure.

(e) Structural Design:

- (1) The structure must be designed to the FP-3/FP-4 Floodproofing Classification (W-4 spaces only) found in the 1995 version of the US Army Corps of Engineers document titled "Flood Proofing Regulations," a copy of which is hereby adopted by reference and declared to be a part of this Ordinance. If there is a conflict of terms found

in Flood Proofing Regulations and the definition of terms used in this Ordinance, the latter shall prevail.

- (2) The design of the structure must include a minimum of two openings in the outside walls of the structure to allow for the equalization of hydrostatic flood forces on all spaces inside the outer walls of the structure. The automatic openings shall be placed on at least two sides of the structure and the bottom of all openings shall be placed no higher than one foot above the lowest adjacent grade of the structure. Opening a garage door during flooding is not considered an automatic opening and shall not meet the requirement for automatic openings. The sizing of the automatic openings shall be in accordance with a design certified by a registered professional engineer or architect. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters. In the design of the openings, the engineer or architect may consult the Federal Emergency Management Agency's publication entitled "Openings in Foundation Walls for Buildings in Special Flood Hazard Areas in accordance with the National Flood Insurance Program," a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
- (3) Special care must be taken to make sure that all contents stored in the structure are placed in accordance with Chapter 11 of "Flood Proofing Regulations". Specifically, the conditional use issued shall indicate those types of chemicals and similar contents for agricultural uses that are: 1) "extremely hazardous (Class XX)" and require prohibition from the floodplain; and 2) "sufficiently hazardous (Class X) and , if stored in the structure, must be stored above the regulatory flood protection elevation.
- (f) The applicant shall be advised in writing that the internal (wet) floodproofing techniques authorized herein will not be credited for insurance rating purposes by the National Flood Insurance Program. Therefore, the lowest floor for flood insurance rating purposes will be the base or floor level of the internally flooded space. Should flood insurance be purchased, the premiums may be extremely expensive.
- (g) A document must be prepared and recorded that references the

property in question such that it would appear in the chain of title and clearly states all of the conditions that are stipulated in the conditional use permit authorizing construction of a structure with the lowest floor below the regulatory flood protection elevation.

17.5480.00 As an alternative to elevation on fill, or structural FP-1 or FP-2 floodproofing, as required in Section 17.4453 and 17.5220, any accessory structure exceeding 576 square feet may be elevated on fill as required to the Base Flood Elevation, and floodproofed in accordance with the guidelines for FP-3 or FP-4 wet floodproofing classifications to the Regulatory Flood Protection Elevation.

17.5500 Standards for All Flood Fringe Uses:

17.5510 All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

17.5520 Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

17.5530 Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 17.5520 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

17.5540 Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These

standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

- 17.5550 Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- 17.5560 Standards for travel trailers and travel vehicles are contained in Section 17.9030.
- 17.5570 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- 17.5580 Any new structure erected within the AH Zone shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structure.
- 17.6000 GENERAL FLOODPLAIN DISTRICT
- 17.6100 Permitted Uses:
- 17.6110 The uses listed in Section 17.4100 of this Ordinance shall be permitted uses.
- 17.6120 All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 17.6200 below. Section 17.4000 shall apply if the proposed use is in the Floodway District and Section 17.5000 shall apply if the proposed use is in the Flood Fringe District.
- 17.6200 Procedures for Floodway and Flood Fringe Determinations Within the General Floodplain District.
- 17.6210 Upon receipt of an application for a Conditional Use Permit for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.
- 17.6211 A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development,

and high water information.

- 17.6212 Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
- 17.6213 Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- 17.6220 The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
- 17.6221 Estimate the peak discharge of the regional flood.
- 17.6222 Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- 17.6223 Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- 17.6230 The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Planning Commission. The Planning Commission must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Planning Commission, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, or the Department of Natural Resources for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Planning Commission

shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 17.4000 and 17.5000 of this Ordinance.

17.7000 SUBDIVISIONS

17.7100 Review Criteria:

17.7110 No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the floodplain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

17.7200 Floodway/Flood Fringe Determinations in the General Floodplain District:

17.7210 In the General Floodplain District, applicants shall provide the information required in Section 17.6200 of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

17.7300 Removal of Special Flood Hazard Area Designation:

17.7310 The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

17.8000 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

17.8100 Public Utilities.

17.8110 All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

17.8200 Public Transportation Facilities.

17.8210 Railroad tracks, roads, and bridges to be located within the floodplain shall comply with Sections 17.4000 and 17.5000 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

17.8300 On-site Sewage Treatment and Water Supply Systems:

17.8310 Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems and Section 21.0000 of this ordinance shall be determined to be in compliance with this Section.

17.9000 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.

17.9010 New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 17.7000 of this Ordinance.

17.9020 The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 17.5000 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 17.5510, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Planning Commission.

17.9021 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame

ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

17.9030 Travel trailers and travel vehicles that do not meet the exemption criteria specified in Section 17.9031 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 17.9033-17.9034 below.

17.9031 Exemption - Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 17.9032 below and further they meet the following criteria:

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

17.9032 Areas Exempted For Placement of Travel/Recreational Vehicles:

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

17.9033 Travel trailers and travel vehicles exempted in Section 17.9031 lose this exemption when development occurs on the parcel exceeding \$500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in Sections 17.4000 and 17.5000 of this Ordinance.

17.9034 New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and



condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

- a. Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 17.5510 of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.
- b. All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of Section 7 of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 17.8300 of this Ordinance.

**SECTION 18 SHORELAND OVERLAY DISTRICT**

18.1000 SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

18.1100 Shoreland Classification System:

18.1110 The public waters of Polk County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Polk County, Minnesota, a copy of which is hereby adopted by reference.

18.1111 The shoreland area for the water bodies listed in Sections 18.1120 and 18.1130 shall be as defined in Section 3.0930 and as shown on the Official Zoning Map.

18.1120 Lakes:

18.1121 Natural Environment Lakes: All lakes indicated on the Protected Waters Inventory Map for Polk County, Minnesota not otherwise classified in this section.

18.1122 Recreational Development Lakes:

Lake Name	Protected Waters Inventory I.D.#
1. Maple Lake	305P
2. Ulland Bay (Maple Lake)	300W
3. Union Lake	217P
4. Lake Sarah	202P
5. Cable Lake	293P
6. Sandhill Lake	69P

18.1123 General Development Lakes:

Lake Name	Protected Waters Inventory I.D.#
1. Cameron Lake	189P
2. Mitchell Lake	212P
3. Spring Lake	12P

18.1124 Unless otherwise designated by this Ordinance, all Natural Environmental, Recreational Development, and General Development Lakes as defined in Section 18.1121, Section

18.1122, and Section 18.1123 shall be classified in 18.1220 Residential Land Use District.

18.1130 Rivers and Streams: All protected watercourses shown on the Protected Waters Inventory Map for Polk County are classified as follows. The designated legal descriptions are general and the exact location and extent of classifications shall be as designated on the official map.

18.1131 Agricultural Rivers

River Name	Legal Description
1. Clearwater River	T151N R39W
2. Lost River	T150N R40W
3. Hill River	T150N R40W T149N R40W T148N R41W T149N R39W T148N R39W
4. Sandhill River	T147N R40W T147N R41W T147N R42W T147N R43W T147N R44W T147N R45W T147N R47W T147N R48W T148N R48W T148N R49W
5. Red Lake River	T150N R45W T150N R46W T150N R47W T150N R48W T150N R49W T151N R49W T151N R50W
6. Grand Marais River	T150N R48W T151N R48W T151N R49W T152N R49W T153N R50W

- |    |                        |   |
|----|------------------------|---|
| 7. | Snake River            | T154N R49W  |
| 8. | Red River of the North | Entire western border of unincorporated Polk County |

18.1132 Tributary Streams. All protected watercourses in Polk County shown on the Protected Waters Inventory Map for Polk County not given a classification in Items 18.1131 above shall be considered "Tributary".

18.1200 Land Use District Descriptions:

18.1210 Criteria for designation. The land use districts in Section 18.1220, and the delineation of a land use district's boundaries on the Official Zoning Map, must be consistent with the following criteria, considerations, and objectives:

18.1211 General Considerations and Criteria for All Land Uses:

- a. Preservation of natural areas;
- b. Present ownership and development of shoreland areas;
- c. Shoreland soil types and their engineering capabilities;
- d. Topographic characteristics;
- e. Vegetative cover;
- f. In-water physical characteristics, values, and constraints;
- g. Recreational use of the surface water;
- h. Road and service center accessibility;
- i. Socioeconomic development needs and plans as they involve water and related land resources;
- j. The land requirements of industry which, by its nature, requires location in shoreland areas; and
- k. The necessity to preserve and restore certain areas having significant historical or ecological value.

- 18.1212 Factors and Criteria for Planned Unit Developments:
- a. Existing recreational use of the surface water and likely increases in use associated with planned unit developments;
  - b. Physical and aesthetic impacts of increased density;
  - c. Suitability of lands for the planned unit development approach;
  - d. Level of current development in the area; and
  - e. Amounts and types of ownership of undeveloped lands.

18.1220 Land Use District Descriptions. The land use districts provided below, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the Official Zoning Map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200, Subp. 3:

A= Allowed Use    P = Permitted Use    N = Not Permitted    C = Conditional Use

A. Land Use Districts For Lakes

	General	Recreational	Natural
1. Residential District - Uses			
-Single residential	P	P	P
-Agricultural: cropland and pasture	A	A	A
-Agricultural feedlots	C	C	C
-Semipublic	C	C	C
-Parks & historic sites	C	C	C
-Extractive Use	C	C	C
-Duplex, triplex, quad residential	P	P	C
-Forest management	C	C	C
-Mining of metallic minerals and peat	C	C	C
-Backyard Composting	A	A	A
-Commercial retail and Personal service establishments	C	C	C
-Gas stations and convenience stores	C	C	C

-Hotels, motels, Campgrounds and trailer courts	C	C	C
-Surface Water Orientated Commercial	C	C	C
-Restaurants, dinner clubs, Private clubs	C	C	C
-Residential Planned Unit Development	C	C	C
-Commercial planned unit development**	C	C	C

B. Land Use Districts for Rivers and Streams

	Agricultural	Tributary
1. Residential District - Uses		
-Single residential	P	P
-Agricultural: cropland and pasture	A	A
-Agricultural feedlots	C	C
-Semipublic	C	C
-Parks & historic sites	C	P
-Agricultural feedlots	C	C
-Parks & historic sites	C	C
-Extractive use	C	C
-Duplex, triplex, quad residential	C	C
-Forest management	C	C
-Mining of metallic minerals and peat	C	C

\* As accessory to a residential planned unit development

\*\* Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 18.4000 of this ordinance are satisfied.

18.2000 ZONING AND WATER SUPPLY/SANITARY PROVISIONS

18.2100 Lot Area and Width Standards. The lot area (in square feet) and lot width standards (in feet) in the first and second tier (as specified in 18.4410) for single, duplex, triplex and quad residential lots created after the date of enactment of this ordinance for the lake and river/stream classifications are as specified in this section except where frontage is on a cul-de-sac the frontage on a public road may be reduced as determined by the Administrator. Lot area, width, depth and area

standards not within the first or second tier are as regulated in the underlying zoning district.

18.2105 Flag Lots created prior to May 1, 2007 shall be allowed as a conforming use in the Shoreland Overlay District provided the only non-conformity of the lot is the lack of requisite frontage on a public road, provided the lot access is in compliance with Section 13.3113.

18.2110 Unsewered Lakes

A. Natural Environment:

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

B. Recreational Development:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

C. General Development:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

18.2120 Sewered Lakes:

A. Natural Environment:

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

B. Recreational Development:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

C. General Development:

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

18.2130 River/Stream Lot Width Standards. The minimum lot size requirements for rivers and streams are as regulated in the underlying zoning district. The lot width standards for single, duplex, triplex and quad residential developments for the five river/stream classifications are:

	Agri-cultural	Tributary	
		No sewer	Sewer
Single	150	100	75
Duplex	225	150	115
Triplex	300	200	150
Quad	375	250	190



18.2140 Additional Special Provisions

- 18.2141 Residential subdivisions with dwelling unit densities exceeding those in the tables in Sections 18.2120 and 18.2130 can only be allowed if designed and approved as residential planned unit developments under Section 18.4000 of this ordinance. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewered lot area dimensions in Section 18.2120 can only be used if publicly owned sewer system service is available to the property.
- 18.2142 Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:
- a. Each building must be set back at least 200 feet from the ordinary high water level;
  - b. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
  - c. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
  - d. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- 18.2143 One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 18.2110-18.2130, provided the following standards are met:
- a. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
  - b. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
  - c. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
- 18.2144 Outdoor storage of one of the following items shall be allowed, per lot, in the shoreland overlay district: travel trailers, fifth wheels, motor homes, pop-up campers, or other similar item designed for

short-term or temporary occupancy. The item shall be subject to the following conditions:

- a. item is currently licensed;
- b. item is not intended for routine occupancy (regular weekend occupancy, seasonal occupancy, or permanent occupancy)
- c. item has not been altered in manner which would suggest its use would be for on-site occupancy (i.e. attachment of decks or additions to item, placement of patios, decks, sidewalks or stairs to serve item, hard-wired electrical, water or sewage treatment system connection, etc.);
- d. item maintains its character for its intended purpose of off-site use (i.e. wheels inflated, axels attached, tongue/coupling systems intact, unit is road worthy, etc..)
- e. item shall comply with the setback requirements applied to accessory structures located in the shoreland overlay district

18.2145 Any travel trailer, fifth wheel, motor home, pop-up camper or other similar item designed for short-term or temporary occupancy located on any lot within the shoreland overlay district which does not comply with 18.2144 shall be deemed a violation of this ordinance, except as follows:

- a. where a permit has been obtained for the permanent placement of the item upon a lot which meets the requirements of 18.2143
- b. where the storage of the item is within any enclosed building located on the property
- c. where the storage occurs at a property which has been permitted for the commercial storage of said items

18.2146 Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

- a. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;
- b. 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 the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

#### Controlled Access Lot Frontage Requirements

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

- c. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
- d. Covenants or other equally effective legal instruments must be adopted and specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They may also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, 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.

18.2147 Nonriparian lots abutting nonconforming riparian lots of record may be platted in a manner consistent with the riparian lots under the following conditions:

- a. The plat must indicate that these lots may not be used for dwellings;

- b. The lots must be intended for sale to the owners of the abutting riparian lots;
- c. The area of the lots must be at least 15,000 square feet.

18.2148 No more than one passenger vehicle not currently licensed may be kept or stored outside a building in the shoreland district unless specifically permitted by this ordinance.

18.2200 Placement, Design, and Height of Structures

18.2210 Placement of structures on lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

18.2211 Structure and On-site Sewage System Setbacks (in feet) from Ordinary High Water Level.

Classes of Public Waters	Structures		Septic System
	Unsewered	Sewered	
LAKES			
Natural Environment	150	150	150
Recreational Development	100	75	75
General Development	75	50	50
RIVERS			
Agriculture, and Tributary	100	50	75

18.2212 Additional structure setbacks. The following additional structure setbacks apply, regardless of the classification of the water body:

Setback From:	Setback (in feet)
a. top of bluff;	30
b. unplatted cemetery;	50
c. right-of-way line of federal, state, or county highway; and	50

- d. right-of-way line of town road, public street, or other roads or streets not classified. 20
- e. side lot line 10
- f. rear lot line 10

18.2213 Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

18.2214 Uses without water-oriented needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

18.2215 Administrative alteration of setbacks. The setbacks from side lot line, rear lot line, and right-of-way lines may be reduced by the Zoning Administrator to 50% of the distance specified in 18.2212 if the following conditions are met:

- a. A hardship must be indicated by the applicant.
- b. The lot must be substandard in width, depth, or area by 30% of the width, depth, or area causing the hardship.
- c. The structure will not interfere with the construction or repair of adequate water supply and sewage treatment facilities.
- d. If it is determined that the application complies with all other requirements of the ordinance, the application shall be referred to the Township Board, the ten closest property owners, and the affected road authority for review and comment, the notified parties shall have thirty days to respond.
- e. Upon affirmative response from those notified, the administrator shall reduce the setback requirement.
- f. Adverse response from those notified shall cause the application to be considered at the next appropriate Board of Adjustment meeting as a variance.

18.2220 Design Criteria for Structures

18.2221 High water elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- a. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
- b. For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

18.2222 Water-oriented accessory structures. Water-oriented accessory structures shall be considered nonconforming structures subject to the provisions of Section 8.

18.2223 Stairways, lifts, and landings. Stairways and lifts are allowed for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
- b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, 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 shoreareas, provided that the dimensional and performance standards of subitems a. to e. are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

18.2224 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.

18.2225 Accessory structures. The following standards shall apply to accessory structures in the Shoreland Overlay District property:

- (A) On a riparian parcel, one single-story accessory structure with a maximum size of 800 sq. ft., or the placement of an additional single-story accessory structure where the total combined square footage does not exceed 800 sq. ft. shall be permitted. No more than two accessory structures shall be permitted on any riparian parcel. The maximum height of the accessory structure(s) shall be fifteen (15) feet.
- (B) No accessory structure over fifteen (15) feet shall be permitted unless located in excess of 300 feet from the Ordinary High Water mark on a General or Recreational lake as listed in Section 18.1120 or located on a nonriparian parcel.
- (C) On a nonriparian parcel or located a distance of 300 feet or more from the Ordinary High Water mark on a riparian parcel, a maximum size of 2400 sq.ft. for an accessory structure shall be permitted. The combined total of all accessory structures shall not exceed 3200 sq.ft. on a nonriparian parcel. No more than two accessory structures shall be permitted on any nonriparian parcel. The maximum height of the accessory structure(s) shall be twenty-five (25) feet.

- (D) Accessory structures with Agricultural uses shall be permitted in accordance with Section 18.2200.
- (E) No septic systems installed for use in an accessory structure shall be permitted unless first obtaining a C.U.P..
- (F) A Conditional Use Permit (CUP) is required for one single-story accessory structure over 800 sq.ft on a riparian parcel, or for the placement of an additional single-story accessory structure on any riparian parcel where the total combined square footage of both accessory structures will exceed 800sq.ft. No more than two single-story accessory structures shall be permitted on any parcel. The Conditional Use Permit will be subject to the following criteria:
  1. Vegetative screening will be required between the Ordinary High Water Mark (OHW) and the one-story accessory structure(s). Screening must be to the satisfaction of the Polk County Planning and Zoning Office.
  2. The maximum height of the one-story accessory structure(s) will be 15 feet.
  3. The accessory structure(s) must meet the setback requirement for structures as defined in Section 18.2211 of the Polk County Zoning Ordinance. The string-test rule will be prohibited for determining the setback from the OHW.
  4. The square footage of the riparian parcel will determine the maximum square footage or combined square footage of the one-story accessory structure(s). See chart below for maximum accessory structure square footage per riparian parcel square footage.

<u>Parcel size in sq. ft.</u>	<u>Max. acces. structure in sq.ft.</u>
0 – 20,000	800
20,000 – 30,000	1000
30,000 – 40,000	1200
40,000 and over	1600

- 5. Any additional requirements or restrictions that are



deemed necessary to preserve the character of the area and to meet the intent of the Polk County Zoning Ordinance may be placed as a condition of the CUP.

- (G) All accessory structures that are 800 sq.ft. or less with a maximum height of 15 feet shall be setback a minimum of 20 feet from the township road right-of-way.
- (H) All nonriparian lot accessory structures between 800 sq.ft. and 2400 sq.ft. and a maximum height of 25 feet shall be setback 40 feet from the township road right-of-way.

18.2226 Water Oriented Accessory Structures. The following standards shall apply to any water oriented accessory structures in the Shoreland Overlay District.

- (A) Any water oriented accessory structure which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of the current Ordinance is considered a nonconforming structure.
- (B) No water oriented accessory structures shall be expanded, changed, enlarged, or altered in a way which increases its structural dimensions. This includes increases in width, length, and height to the water oriented accessory structure.
- (C) The cost of any structural alterations or alterations for normal maintenance and repairs to water oriented accessory structures over the life of the structure shall not exceed 50 percent of the Polk County Assessor's value of the structure. Normal maintenance and repair shall include such things as siding, shingling, installation of windows or doors, painting, repairs to electrical systems, insulation, flooring, and other such items that are needed to maintain and repair the current structure. The cost of all maintenance and repairs constructed since the adoption of the initial official controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
- (D) If the current cost of all previous and proposed structural alterations or maintenance and repairs exceeds 50 percent of the Polk County Assessor's value of the structure, then the structure must meet the standards of this Ordinance for new accessory structures.
- (E) If any water oriented accessory structure is destroyed by any means, including floods, tornadoes, wind storms, or other acts of god, to an extent of 50 percent or more of its value, as determined by the Polk County

Assessor's Office, at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

18.2230 Height of structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 30 feet in height as measured from the original grade of property to the peak of the structure. The structure height does not include height of antennae, vents, chimneys, satellite receivers, or other similar items attached to the house but are not structural in nature.

18.2240 For residential homes with walkout basements, the structure height measurement shall be taken from the natural grade of property at the main floor and measured to the peak of the structure, not the basement grade of property.

18.2250 The structure shall not incorporate more than two (2) stories of above grade living space, as measured from the main floor grade.

18.2300 Shoreland Alterations

18.2310 Vegetation Alterations

18.2311 Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 18.2400 of this ordinance are exempt from the vegetation alteration standards that follow.

18.2312 Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 18.2620 and 18.2630, respectfully, is allowed subject to the following standards:

- a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
- b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, provided that:

1. Vegetation alterations shall in no case exceed 50% of the brush

and 25% of the trees within the shore and bluff impact zones or on steep slopes. For the purpose of this section trees less than four (4) inches in diameter as measured at a height of four (4) feet from the ground shall be considered brush.

2. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
3. Along rivers, existing shading of water surfaces is preserved; and
4. The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased, or pose safety hazards.

18.2320 Topographic Alterations/Grading and Filling

18.2321 Topographic alterations are not allowed on bluffs.

18.2322 Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

18.2323 Public roads and parking areas are regulated by Section 18.2400 of this ordinance.

18.2324 Notwithstanding items 18.2322 and 18.2323 above, a grading and filling permit will be 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 50 cubic yards of material outside of shore and bluff impact zones.

18.2325 The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- a. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:

1. Sediment and pollutant trapping and retention;
  2. Storage of surface runoff to prevent or reduce flood damage;
  3. Fish and wildlife habitat;
  4. Recreational use;
  5. Shoreline or bank stabilization; and
  6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
  - c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
  - d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
  - e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
  - f. Fill or excavated material must not be placed in a manner that creates an unstable slope;
  - g. Fill or excavated material must not be placed in bluff impact zones, or on steep slopes;
  - h. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of Natural Resources under Minnesota Statutes, Section 103G.245;
  - i. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

- j. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

18.2326 Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner of Natural Resources has approved the proposed connection to public waters.

#### 18.2400 Placement and Design of Roads, Driveways, and Parking Areas

18.2410 Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

18.2420 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.

18.2430 Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 18.2320 of this ordinance must be met.

18.2500 Storm Water Management - The following general and specific standards shall apply:

18.2510 General Standards:

18.2511 When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

18.2512 Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas

must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

18.2513 When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

18.2520 Specific Standards:

18.2521 Impervious surface coverage of lots must not exceed 25 percent of the lot area.

18.2522 When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

18.2523 Newly constructed stormwater out falls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

18.2600 Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.

18.2610 Standards for commercial, industrial, public and semipublic uses:

18.2611 Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

- a. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
- b. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- c. Uses that depend on patrons arriving by watercraft may use signs

and lighting, provided that:

1. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and
2. Signs placed within the shore impact zone are:
  - a) No higher than (10) ten feet above the ground, and no greater than (32) thirty-two square feet in size; and
  - b) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

18.2612 Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

18.2620 Agriculture Use Standards

18.2621 Buffers.

- a) 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 that includes alternative riparian water quality practices consistent with the field office technical guides of the local soil and water conservation districts or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.
- b) The shore impact zone for parcels with permitted agricultural land uses is an area with a fifty (50) foot average width and a thirty (30) foot minimum width, as

measured from the ordinary high water level if identified, or the top or crown of bank or normal water level as provided in Minnesota Statutes, section 103F.48, subd. 3 (c), whichever is applicable.

18.2622 Animal feedlots must meet the following standards:

- a. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and
- b. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

18.2630 Forest management standards. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

18.2640 Extractive Use Standards.

18.2641 Site development and restoration plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

18.2642 Setbacks for processing machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

18.2650 Mining of metallic minerals and peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes, Sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

18.2700 Conditional Uses - Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in Section 7. The following additional



evaluation criteria and conditions apply within shoreland areas:

- 18.2710 Evaluation criteria. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
  - 18.2711 The prevention of soil erosion or other possible pollution of public waters both during and after construction;
  - 18.2712 The visibility of structures and other facilities as viewed from public waters is limited;
  - 18.2713 The site is adequate for water supply and on-site sewage treatment; and
  - 18.2714 The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- 18.2720 Conditions attached to conditional use permits. The Polk County Board of County Commissioners, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the 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:
  - 18.2721 Increased setbacks from the ordinary high water level;
  - 18.2722 Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
  - 18.2723 Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- 18.2730 On-sale or on-sale with off-sale liquor establishments shall comply with those requirements of 13.7030.
- 18.2740 Liquor establishments other than On-sale or on-sale with off-sale liquor licenses shall comply with all requirements in 13.7050.
- 18.2750 Recreational Activities. Activities conducted on a permanent, seasonal or scheduled basis subject to the requirements of 13.7015.

18.2760 Campgrounds shall comply with all requirements in 13.7024 and 18.4000.

18.2761 Campsites must meet dwelling setbacks from the ordinary high water setbacks for lakes and rivers.

18.2762 Campsites must be setback fifty (50) feet from all public road right-of-ways and property lines.

18.2800 Water Supply and Sewage Treatment

18.2810 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.

18.2820 Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment as defined in Section 21 of this Ordinance, as well as, the following:

18.2821 Publicly-owned sewer systems must be used where available;

18.2822 All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems as described in MN Rule 7080 and Section 21 of this Ordinance.

18.2823 On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 18.2211 of this ordinance;

18.2824 All proposed sites for subsurface sewage treatment systems shall be evaluated in accordance with the criteria in subitems 1-4. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation Criteria:

1. Depth to the highest known or calculated ground water table or bedrock;
2. Soil conditions, properties, and permeability;
3. Slope;
4. The existence of lowlands, local surface depressions, and rock outcrops.

- 18.2825 Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 21 of this ordinance.
- 18.3000 Swimming Pools are allowed as a Conditional Use, provided the following conditions are met:
- 18.3100 Indoor swimming pools:
- a. structure maintains its residential character, and character of locale
  - b. management of chemical/discharge is approved by administrator
  - c. structure setback is maintained
  - d. proof of insurance shall be submitted to Administrator, and insurance maintained.
  - e. Indoor swimming pools are prohibited in any 100 year Floodplain Overlay District.
- 18.3200 Outdoor swimming pools, except those of a temporary nature designed to be disassembled and removed atleast seasonally:
- a. setback for pool is same as the structure setback, does not allow for stringtest to be used for determining pool locations;
  - b. pool, decking and/or patio/sidewalks must be permitted, and comply with the impervious lot coverage requirements of 18.2521;
  - c. management of chemicals/discharge is approved by Administrator;
  - d. pool area to be secured with fencing/gates to prohibit access when unattended;
  - e. pool shall not be located near any above ground power line;
  - f. pool shall not be located near any below grade utilities, other than those serving the pool area, including sewage supply lines or drainfield areas;
  - g. in-ground pools apply for a land alteration permit in addition to the required building permit and CUP.
  - h. proof of insurance shall be submitted to Administrator, and insurance maintained.

- i. any electrical, mechanical or supportive services must be located above the RFPE;
- j. the pool and any fencing or decking must be designed and constructed to resist flood damage in accordance with FP-1 – FP-4 floodproofing classifications in State Building Code.

18.4000 PLANNED UNIT DEVELOPMENTS (PUD's)

18.4100 Types of PUD's Permissible - Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversion of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in Section 18.1200 of this ordinance and the official zoning map.

18.4200 Processing of PUD's - Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 18.4500. If the proposed total project density exceeds the allowable densities in 18.4500, approval cannot occur until the environmental review process (EAW/EIS) is complete.

18.4300 Application for a PUD - The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

18.4310 A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.

18.4320 A property owners association agreement (for residential PUD's) with mandatory membership, and all in accordance with the requirements of Section 18.4600 of this ordinance.

18.4330 Deed restrictions, covenants, permanent easements or other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and 2) ensure the long-term preservation and maintenance of open space in accordance

with the criteria and analysis specified in Section 18.4600 of this ordinance.

- 18.4340 When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- 18.4350 Those additional documents as requested by the Planning Commission that are necessary to explain how the PUD will be designed and will function.
- 18.4400 Site "Suitable Area" Evaluation - Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 18.4500.

- 18.4410 The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	Unsewered (feet)	Sewered (feet)
General development lakes- first tier	200	200
General development lakes- second & additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

- 18.4420 The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.
- 18.4500 Residential and Commercial PUD Density Evaluation - The procedures for determining the "base" density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.

- 18.4510 Residential PUD "base" density evaluation:

- 18.4511 The suitable area within each tier is divided by the single

residential lot size standard which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Section 18.4600.

18.4520 Commercial PUD "base" density evaluation:

18.4521 Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, attached garages, or porches and basements, unless they are habitable space.

18.4522 Select the appropriate floor area ratio from the following table:  
Commercial Planned Unit Development (Floor Area Ratios\*)

Public waters classes:

*Average unit floor area (sq. ft.)	Sewered general development lakes; first tier on unsewered general development lakes; urban, agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes; recreational development lakes; transition and forested river segments	Natural environment lakes and remote river segments
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

\*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1000 square feet.

18.4523 Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

18.4524 Divide the total floor area by tier computed in 18.4523 above by the average inside living area size determined in 18.4521 above. This yields a base number of dwelling units and sites for each tier.

18.4525 Proposed location and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Section 18.4600.

18.4530 Density increase multipliers:

18.4531 Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standard in Section 18.2000 are met or exceeded and the design criteria in Section 18.4600 are satisfied. The allowable density increases in 18.4532 below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

18.4532 Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments:

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

18.4600 Maintenance and Design Criteria

18.4610 Maintenance and administration requirements:

18.4611 Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

18.4612 Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

- a. Commercial uses prohibited (for residential PUD's);
- b. Vegetation and topographic alterations other than routine maintenance prohibited;
- c. Construction of additional buildings or storage of vehicles and other materials prohibited; and
- d. Uncontrolled beaching of watercraft prohibited.

18.4613 Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

- a. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
- b. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or 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.

18.4620 Open space requirements. Planned unit developments must contain open space meeting all of the following criteria:



- 18.4621 At least 50 percent of the total project area must be preserved as open space;
- 18.4622 Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, are developed areas and shall not be included in the computation of minimum open space;
- 18.4623 Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- 18.4624 Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
- 18.4625 Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
- 18.4626 Open space must not include commercial facilities or uses;
- 18.4627 The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
- 18.4628 The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUD'S, at least 50 percent of the shore impact zone must be preserved in its natural state.
- 18.4630 Erosion control and stormwater management. Erosion control and stormwater management plans must be developed and the PUD must:
- 18.4631 Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project

size and site physical characteristics warrant; and

18.4632 Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 18.2300.

18.4640 Centralization and design of facilities. Centralization and design of facilities and structures must be done according to the following standards:

18.4641 Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 18.2200 and 18.2800 of this ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;

18.4642 Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Section 18.4530 of this ordinance for developments with density increases;

18.4643 Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). 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;

- 18.4644 Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;
- 18.4645 Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure set back and must be centralized.
- 18.4700 Conversions - Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:
- 18.4710 Proposed conversion must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
- 18.4720 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.
- 18.4730 Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
- 18.4731 Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
- 18.4732 Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
- 18.4733 If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversion 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.

18.4740

Existing dwelling unit or dwelling site densities that exceed standards in Section 18.4500 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 19 FEEDLOT REGULATIONS

Polk County enforces those provisions of MR 7020 that apply to Local Governmental Units authority to administer feedlot programs within its jurisdiction. Polk County hereby adopts MR 7020 by reference. Any conflict between MR 7020 and this Section shall be interpreted and enforced by the more restrictive standard in effect. In the event that conflict between MR 7020 and Section 3.0040 exist, the Animal Unit equivalents found in MR 7020 shall prevail.

### 19.1000 PERMITS

- 19.1100 No person shall operate and/or construct an animal feedlot with 50 or more animal units (10 or more animal units within a Shoreland Management District or Floodplain District) without first making application with the appropriate federal, state and local authorities, which may include any or all of the following: a federal National Permit Discharge Elimination System (NPDES) permit, a state Certificate of Compliance or Interim permit (as set forth in MPCA Chapter 7020 Rules and updates), and/or a local feedlot permit meeting the standards set forth in this Ordinance.
- 19.1200 Feedlot Permit - The Administrator shall issue a permit provided the feedlot complies with MPCA regulations. The owner of a proposed or existing animal feedlot of 50 or more AU (10 or more AU within Shoreland Management or Floodplain Districts) shall comply with this ordinance, MPCA rules and federal NPDES rules. Any use, arrangement, or construction that does not comply with the permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 9.
- 19.1250 Feedlot Short-form Permit – The Construction Short-Form Permit covers owners and operators of animal feedlots and manure storage area having a capacity of 300 to 999 animal units who are constructing or expanding their facility.
- a. The feedlot or manure storage area is constructed and operated in accordance with the technical standards in Minnesota Rule, Chapter 7020.2000 to 7020.2225.
  - b. The existing facility does not presently have a ‘pollution hazard’.
  - c. The capacity of the proposed facility will not meet or exceed the Large Concentrated Animal Feeding Operation threshold.
  - d. The Construction Short-Form Permit expires after 24 months, but may be extended for one 24-month period if construction has not

been completed. The extension shall be requested 90 days prior to the expiration date of the original Permit.

- 19.1300 Interim Permit - The Administrator may issue an Interim Permit for a feedlot of less than 1000 animal units.
- 19.1400 Local, State and Federal Permits - Prior to granting a feedlot permit, the applicant shall furnish proof to the Administrator that the applicant has obtained all necessary federal, state and local permits.
- 19.1500 Validity - A feedlot permit will remain valid if there are no changes in the operation, and the operator or the successor operator is in compliance with this Ordinance and all applicable laws and regulations.

#### 19.2000 VARIANCES

- 19.2100 Variances shall be issued as outlined in Section 5 of this Ordinance.
- 19.2200 In addition to notices being sent to those parties listed in Section 5.4200, notices shall also be sent to the following:
  - 1. The owner of any lot(s) or parcel(s) of land within the separation setbacks as defined in 19.4000 of this Section.

#### 19.3000 CONDITIONAL USE PERMITS

- 19.3100 Conditional Uses. A Conditional Use Permit shall be required when:
  - 19.3110 A new feedlot with 1000 or more animal units is proposed or an existing feedlot is expanded to 1000 animal units or more.
  - 19.3120 Any new feedlot, or any expansion or modification to an existing feedlot within the Shoreland management or Floodplain Districts or shoreland bluff impact zone; as long as expansion or modification does not further encroach into the riparian or bluff impact zone.
  - 19.3130 Any feedlot requiring the Environmental Review Program Pursuant M.S. 116D.04 and 116D.045 and its administrative rules adopted by the Environmental Quality Board 4410.0200-4410.7800.
  - 19.3140 Manure from out of county sources, produced from 1000 AU or more, is transported into Polk County. An approved manure management plan from the producer is required as part of the Conditional Use Permit application.

- 19.3150 Total manure volume imported into Polk County and that produced by the same entity within the County is equal to or exceeds 1000 AU.
- 19.3160 Composting of dead animals, subject to the following criteria:
- 19.3161 Composting of dead animals is allowed in the Agricultural, and Industrial Districts, as defined in the Polk County Zoning Ordinance. Composting of dead animals is not allowed in the Village District, Commercial District, Shoreland Overlay District or Floodplain Overlay District, as defined in the Polk County Zoning Ordinance.
  - 19.3162 Operation is in accordance with the applicable Board of Animal Health and Minnesota Pollution Control Agency Rules.
  - 19.3163 The compost facility will be subject to those setbacks for the stockpiling of manure, at a minimum, as defined in Section 19.5500. Setbacks may increase as a condition of the permit to prevent adverse impact to those locations listed in Section 19.5500 or other natural features.
  - 19.3164 The permit shall be subject to annual Administrative Review and/or periodic site inspections by the County Feedlot Officer.
- 19.3200 Conditional Use Permits shall be issued as outlined in Section 7 of this ordinance.
- 19.3300 Application for a Conditional Use Permit shall include the following:
- 19.3310 A completed MPCA feedlot permit application.
  - 19.3320 An on-site inspection by the Zoning Administrator and/or designated County Feedlot Officer.
  - 19.3330 A facility operation and manure waste management plan including:
    - a. Manure handling and application techniques including: transfer and application equipment, planned times of manure transfer, planned periods of land application, and incorporation techniques if applicable.
    - b. Method and techniques of the disposal of dead animals.
    - c. How odor will be managed during waste storage, waste transfer,

land application and building ventilation.

- d. A listing of involvement in feedlot operations, in excess of three hundred (300) animal units, in the United States in the past five (5) years including location, position within the organization, and the current owners, including name and address.

19.3340 Certification that the applicant has not had a feedlot permit revoked by MPCA within the past five (5) years.

19.3350 Provisions addressing general facility management and neighbor relations issues described as follows:

- 1) Minimizing visibility of the production site.
- 2) Any concerns relating to the distance and direction of neighbors and communities from the site.
- 3) Locating the facilities to accommodate land application of manure.
- 4) Maintenance of facilities.
- 5) Education of the public regarding expansion or modification plans.
- 6) Evaluation of current or proposed farm sites for potential environmental hazards.
- 7) Responding to complaints of citizens and governmental entities relating to the operation of the facility.

19.3360 Such additional information as contained in the application or as requested by the Planning Commission or County Board.

19.3370 Applications for any permits required by other state and federal agencies.

19.3380 Any environmental impact statements (EIS) or environmental assessment worksheets (EAW) that may be required by other federal and state agencies.

19.3400 The County may require, in addition to the standards and requirements expressly specified in Section 7.5100, additional conditions that the Planning Commission or County Board considers necessary, including, but not limited to, conditions relating to management practices and/or



other items submitted with the application.

19.3500 Any change involving structural alterations, enlargement, or similar change not specifically permitted in the conditional use permit shall be considered a new application for a conditional use permit, unless the Zoning Administrator and Planning Commission determines the change to be inconsequential, following which the existing Conditional Use Permit may be amended.

19.3600 Conditional use permits shall remain in effect as long as the total acres of land specified for spreading purposes is available for such purpose and as regulated otherwise by this ordinance, the owner has obtained and possesses a valid certificate of compliance or permit from the MPCA pursuant to MN Rules Chapter 7020 or any successor rules or regulations, and be subject to any time limitations the Planning Commission or County Board may recommend.

19.4000 FEEDLOT SETBACKS AND SEPARATIONS

19.4100 In order to prevent pollution of surface and ground water, protect valuable agricultural lands, promote sound agricultural practices, and prevent conflicts, this Section shall regulate feedlot setbacks and separations.

19.4200 Feedlot setbacks - All setbacks of this section shall apply across county lines. The setback standards of the county where the feedlot is located shall apply. In cases when two setbacks may apply, the setback with the greatest distance shall apply. No new feedlot shall hereafter be erected within the following distances:

ANIMAL UNITS	51 - 300 AU	301 - 1000 AU	1001+ AU
Cities	½ mile	1 mile	2 miles
Public Parks	¼ mile	¼ mile	¼ mile
Platted areas of 10 contiguous lots or residences (from the edge of the plat)	¼ mile	½ mile	1 mile
Neighboring residence	¼ mile	¼ mile	¼ mile
Public drainage ditch	300 feet	300 feet	300 feet
FAA approved airport	¼ mile	¼ mile	½ mile
Schools	¼ mile	½ mile	1 mile
Municipal wells	¼ mile	¼ mile	1 mile
Building used as a church, synagogue, or			

place of worship with regular scheduled services	½ mile	½ mile	½ mile
Cemetery governed by a cemetery association, local government, or congregation of worshippers	¼ mile	¼ mile	¼ mile
No non-farm dwelling shall be allowed within _____ of an existing feedlot, unless it is to replace an existing dwelling.	¼ mile	¼ mile	¼ mile
Recreational and General Development Lakes - setback from OHW	¼ mile	½ mile	2 miles

19.5000 ANIMAL WASTE STORAGE FACILITIES, APPLICATION AND UTILIZATION.

- 19.5100 All new liquid manure holding structures for animal waste shall meet the minimum construction standards required by the MPCA.
- 19.5200 Standards for animal waste earthen storage basins and lagoons, or concrete storage structures for manure shall be in compliance with:
1. Minimum MPCA requirements; and
  2. All plans shall be prepared and approved by a registered professional engineer or have NRCS job authority approval; and
  3. If soils are identified as having severe limitations due to seepage the plans for earthen storage basins and lagoons shall include a synthetic liner; and
  4. Temporary manure storage areas such as daily scrape areas are not considered earthen basins or concrete pits and shall be operated in a non-polluting manner.
- 19.5300 All application of animal waste shall comply with all setbacks of this Section to minimize odor nuisance, potential point and non-point pollution.
- 19.5400 All utilization of animal manure as fertilizer shall be applied in accordance with the MPCA permit in the most agronomically efficient manner. The required acreage for utilization will be based on the minimum acreage necessary to distribute manure at a rate equal to the estimated crop utilization of nitrogen on an annual basis. All applicants must provide:

1. Animal unit capacity of facilities;
2. Acreage available for spreading of manure (spreading agreements shall be provided when adequate acres are not available);
3. Typical crop rotation and annual acres of each crop;
4. System(s) used for the collection, storage and application of manure.

19.5500 Animal waste stockpiling, application and utilization setbacks:

Stockpiles of Manure	Surface or Irrigation Applied	Incorporated or Injected	LOCATION
300'	300'	100'	Streams, river, lakes, wetlands, public ditches from OHW
1/4 mile	1000'	1000'	Municipal well
200'	200'	200'	Private well
see residence setback*	500'	200'	Platted areas of 10 contiguous lots or residences (from the edge of the plat) / City
1/4 mile**	300'	100'	* Own or neighboring residence / cemetery/ public building
Prohibited	Prohibited	Yes	10 year floodplain
100'	100'	10'	Field tile intake

\*\* 1/4 mile setback is for neighboring residences and cemeteries only, does not apply to stockpilers own residence

19.5550 All vehicles and equipment used to transport animal manure on township, county, state or federal roadways, or through municipalities shall be leak proof.

19.5600 When the area topography slopes away from an adjacent watercourse, animal manure may be exempted from the required setbacks upon written approval of the Administrator and meeting minimum MPCA guidelines.

19.5700 No manure storage area shall be constructed, located or operated so as to create or maintain a potential pollution hazard.

19.5800 Animal manure intended for use as domestic fertilizer shall not be stored for longer than 12 months.

19.5900 Manure Management Plan is required by the MPCA, from all feedlots capable of holding 300 animal units or more. Records of actual manure application practices are required at all facilities with 100 AU or more.

19.5910 The Manure Management Plan must contain all elements of MN Rules Ch. 7020.2225 Subp 4.

19.5920 A Manure Management Plan shall be submitted to the MPCA for review only when specifically requested by the MPCA or a County Feedlot Officer, or when applying for an interim or NPDES/SDS permit.

19.5930 Manure Management Plans are required to be updated and retained on file at the animal feedlot or the owner/operator's office.

19.5940 If an NPDES permit is required, the Manure Management Plan shall also include the following items:

- A. Manure storage, handling and testing practices;
- B. Field locations and acreage used for spreading manure;
- C. Field-specific nutrient management; and
- D. Sensitive areas management.

19.6000 NONCONFORMITIES

19.6100 All nonconforming feedlots as of the date of this Section may continue, but they will be managed according to applicable local, state, and federal statutes and this Ordinance for the subjects of: alterations and additions, repairs after damage and discontinuance of use.

19.6200 All construction, additions or expansions to the outside dimensions of existing nonconforming feedlots within the setbacks as defined by this Section must be authorized by a variance issued in conformance to the following:

1. The substitution of one nonconforming use for another nonconforming use on the same property may be permitted only when such substituted use is of a same or more restrictive classification provided the Board of Adjustment deems the proposed use to be no more harmful than the existing

nonconforming use. In permitting such nonconforming use substitution, the Board of Adjustment may require appropriate conditions in accordance with the provisions of this Ordinance. In no case shall such nonconforming use substitution be construed to alter the intent of this Ordinance.

2. A non-conforming use shall not be deemed to be discontinued or abandoned for a reasonable period between tenants or ownership, not to exceed five (5) years.
3. No existing nonconforming structure or land use shall be allowed to expand unless specifically authorized in this Ordinance.
4. Any nonconforming structure or premises devoted to a nonconforming use which is destroyed or damage by fire, flood, tornado or similar noncontrollable cause to an extent of more than fifty (50) percent of the Assessors fair market value shall, if rebuilt, comply fully with the provisions of this Ordinance.
5. Modifications or expansion to existing feedlots located within a bluff impact zone or shoreland of any river class or within 300 feet of any lake class is allowed as specified in Section 19.3120 if they do not further encroach into the riparian setback or bluff impact zone.

#### 19.7000 FEEDLOT REGISTRATION REQUIREMENT

1. Registration shall be required for all new feedlots, or any existing feedlot upon its expansion, which is located in Polk County.
2. Registration forms shall be obtained and filed with the Polk County Feedlot Officer, from either Soil and Water Conservation District (SWCD).

## **SECTION 20 – LARGE GATHERING ORDINANCE**

### 20.0000 LARGE GATHERINGS

20.0100 The purpose of this Ordinance is to provide suitable and adequate sanitary accommodations, and all other reasonable and necessary precautions to protect and insure the health, welfare, comfort and safety of the County and those in attendance at Large Gatherings in Polk County. The general objectives include the following:

1. Correct and prevent conditions that may adversely affect persons attending Large Gatherings.
2. Provide minimum standards for the design and operation of Large Gatherings.
3. To ensure that Large Gatherings of persons held for musical, racing, entertainment or other communal activities are conducted in accordance with proper and acceptable sanitary, police, fire and other health and safety considerations.
4. Establish inspection requirements and associated procedures involved with administering and enforcing this Ordinance.

### 20.1000 GENERAL PROVISIONS

20.1100 Jurisdiction. These regulations shall be applicable to all Large Gatherings within the legal boundaries of Polk County, except as provided in Section 20 of the Polk County Zoning Ordinance.

20.1200 Severability. The provisions of this Ordinance shall be severable. In the event any section, paragraph, sentence, clause, phrase or portion of this Ordinance is declared invalid for any reason, the remainder of this Ordinance shall not be affected.

20.1300 Greater Restrictions. It is not the intent of this Ordinance to nullify or to impair any existing Polk County Ordinance. However, where this Ordinance is more restrictive, it shall take precedence.

20.1400 Interpretation and Application. The provisions of this Ordinance shall be considered minimum requirements and shall be liberally construed in favor of Polk County and shall be deemed a limitation or repeal of any other powers granted by Minnesota statutes.

- 20.2000 DEFINITIONS
- 20.2100 Administrator – the Zoning Administrator of the Department
- 20.2200 Applicant – any individual, partnership, corporation, association, society or group seeking and/or receiving a Large Gathering permit from Polk County.
- 20.2300 Assembly Area – the area within which the Large Gathering activities are to take place.
- 20.2400 Department – the Polk County Planning and Zoning department and all staff duly authorized to carry out the duties of the department.
- 20.2500 Large Gathering – any public gathering of 1,000 or more persons at any location at any single time for the purpose of musical, racing, political, promotional or social entertainment or other similar type of activity, but shall not apply to:
- 20.2501 Any permanent place of worship, stadium, athletic field, arena, auditorium, coliseum or government-sponsored fairs held on regularly established fairgrounds;
  - 20.2502 Gatherings or activities permitted or licensed by other State laws or regulations of the County of Polk, including the State Parks System and the Polk County Regional Park system;
  - 20.2503 Family celebratory gathering taking place entirely upon the premises of a family member.
  - 20.2504 Gatherings held within the incorporated limits of a city.
  - 20.2505 An event that may be held on water or ice as defined under Minnesota Statute, Section 86B.121; or successor statutes, and permitted by the Polk County Sheriff;
  - 20.2506 Gatherings held on property that is owned by a University.
  - 20.2507 Political gatherings
- 20.2600 Permanent place of worship – a consistently and regularly scheduled permanent gathering location for any type of generally recognized and organized religious service.

20.2700 Permitted premises – the entire area to be used by the applicant to conduct a Large Gathering, including, but not limited to, the assembly area, vehicle-parking areas, camping areas and visitor waiting areas.

20.3000 PERMITTING

20.3100 It shall be unlawful for any person, firm or corporation to establish, maintain, expand or operate a Large Gathering within Polk County without first obtaining a permit as required in Minnesota Statute, Section 375.40; or successor of this Ordinance shall be entitled to receive and retain such a permit. Permits shall not be transferable from one person to another person. Any person who operated a Large Gathering without submitting an application shall be deemed to have violated this Ordinance and shall be subject to prosecution as provided herein. Applications shall be made in writing to the Zoning Department at least sixty (60) days in advance of such Large Gathering.

20.3110 Permit shall be required for each event or series of events and for each location persons assemble or can reasonably be anticipated to assemble.

20.3120 Permit Fees. The County Board, by resolution, may establish reasonable fees for the administration of this Ordinance. Fees may be changed by resolution of the Board from time to time as deemed appropriate.

20.3200 The application for a permit to operate a Large Gathering shall be made to the Department in a manner as may be prescribed by the Department. The applicant for a permit shall submit an application in writing upon forms provided by the Department and shall include:

- A) The full names and address of the applicant or applicants; or the names and addresses of any partners if the applicant is a partnership; or the names and addresses of the officers if the applicant is a corporation; and the full names and addresses of the persons owning the land where the Large Gathering is going to be held.
- B) The signature of the applicant
- C) The social security number of the applicants
- D) The MN Business Tax ID number



- E) A legal description of the site, lot, field or tract of land upon which the applicant proposes to operate a Large Gathering
- F) The source of all water supplies, sewage treatment methods and disposal methods of garbage and refuse.
- G) The specific dates in which the applicant will operate the Large Gathering.
- H) The applicant shall provide proof of ownership of all property upon which the Large Gathering is to be held or provide a notarized statement made upon oath or affirmation by the record owner(s) of all such property that the applicant has permission to use such property for the purpose of holding a Large Gathering.
- I) A statement indicating whether or not beer, wine or liquor will be sold or allowed to be consumed on the Licensed Premises during the Large Gathering
- J) A complete description of all activities anticipated to be part of the Large Gathering
- K) A list of all vendors who will be allowed to sell their products at the Large Gathering and a description of those products.
- L) A statement indicating whether or not any gambling activities will be allowed as part of the Large Gathering.
- M) A written operational plan shall be submitted to the Department with the permit application.

20.3210 An application shall be considered complete only when the Department has approved the plans required under the terms of this ordinance.

20.3300 Large Gathering Review Panel. A Large Gathering Review Panel is hereby established for the purpose of reviewing applications for Large Gatherings. It shall be the responsibility of the panel to propose conditions and safeguards for permits that may be issued for Large Gatherings. The Large Gathering Review Panel shall consider the location of the proposed Large Gatherings, their duration, available road accesses, whether or not alcohol may be present, the intended audience, surrounding land uses, the types of activities being proposed, the distance

for available medical, fire and safety facilities, the availability and type of sanitation facilities and any other factors determined by the Panel to be an issue of concern to the health, safety and welfare of Polk County and the attendants at a Large Gathering. The Large Gathering Review Panel shall consist of the following or their designees:

- A) County Auditor-Treasurer
- B) Public Health Director
- C) Polk County Sheriff
- D) Emergency Management Director
- E) County Highway Engineer
- F) Environmental Services Administrator
- G) Planning and Zoning Administrator

- 20.3400 Processing of permit applications. The Large Gathering Review Panel will review the permit application and their recommendations will be forwarded to the Planning Commission within 45 days of receiving a completed application for a Large Gathering. After the Panel has made their recommendations, the completed permit application will be processed in accordance with Section 7 of the Polk County Zoning Ordinance.
- 20.3500 Grounds for permit denial. To the extent provided by law, the County Board may deny a permit application on any of the following grounds, stating in writing its reasons for denial.
- 20.3501 The applicant has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant.
  - 20.3502 The applicant has not submitted the required application fee with the application or has not submitted the required proof of insurance or bond within the terms of this Ordinance.
  - 20.3503 The application for permit contains a material falsehood or misrepresentation.
  - 20.3504 The application does not comply with the minimum requirements of this Ordinance.
  - 20.3505 The proposed use or activity is planned in the Industrial Zoning District.
  - 20.3506 The use or activity intended by the applicant would present an unreasonable danger to the health, safety or welfare of the

applicant, attendees at the Large Gathering, the residents of Polk County, or the public.

- 20.3507 The use or activity intended by the applicant is prohibited by law, prohibited by any township or Polk County Zoning Ordinances, or prohibited by other Polk County rules or regulations.
- 20.3508 The applicant is legally incompetent to contract or to sue or be sued.
- 20.3509 The use or activity would conflict with previously planned Large Gatherings and which would tax available resources for security personnel, medical personnel, County staff, fire response personnel and other resources necessary to create a safe environment for the applicant, attendees at the Large Gathering, the residents of Polk County and the public.
- 20.3510 The applicant has not complied with or cannot comply with any applicable Polk County Ordinances or state laws regarding the sale or offering for sale of any goods or services.
- 20.4000 GENERAL REQUIREMENTS
- 20.4101 Bond. Prior to the issuance of a permit, the Applicant shall file with the Department a license or permit bond, either in cash or underwritten by a surety company licensed to do business in the State of Minnesota, in an amount not less than \$25,000. This bond shall be in effect beginning on the first day of the event and terminate no sooner than the last day of the event. This bond shall indemnify and hold harmless Polk County or any of its agents, officials, servants, employees or volunteer workers from any liability, claims or causes of action which might arise; for payment of employees or services provided by Polk County; and for any cost incurred in cleaning up, removing or disposing of any solid waste or other material produced or left as a result of a Large Gathering.
- A) In the event an applicant is found to have violated any material term or condition upon which the applicant was granted a permit, the County Board may call the bond posted in accordance with the above bond section. No portion of the bond shall be released to the applicant until all provisions of the permit have been resolved to the satisfaction of the County Board.
- 20.4102 Insurance. The applicant shall file with the Department a Certificate of Insurance, demonstrating that the applicant has obtained a Special Events Policy of insurance in an amount not less than \$1,000,000 for bodily injury or death of one person, and not less than \$1,000,000 for bodily

injury or death of two or more persons in any one incident, and not less than \$1,000,000 for damage to property, insuring the applicant against liability for injury, death or property damage arising as a result of a Large Gathering. The policy shall name the Polk County as an additional insured. This policy shall be in effect during the setup and take down of the Large Gathering as well as during the event itself. The insurance policy coverage shall be written for each occurrence.

- 20.4103 Maximum number of persons. A permit shall only allow for the assembly of persons of up to the maximum number of persons as stated in the license. The County Board may impose restrictions on the maximum number of persons that shall be assembled as deemed necessary to protect the health, safety and welfare of those persons who shall be in attendance, the residents of the community in which the Large Gathering shall be held, and other residents of Polk County. The permittee shall not sell tickets to, nor allow to assemble on the permitted premises, more than the maximum permissible number of persons stated in the permit. Where the Large Gathering is to continue overnight, the maximum number of persons shall not be more than that number allowed to remain within the boundaries of the Assembly Area by any applicable zoning ordinance of Polk County or regulations of the Minnesota Department of Health.
- 20.4104 Fenced Grounds. A fence or barrier, if required for safety or security reasons, shall enclose the Assembly Area, being not less than four (4) feet in height and of sufficient strength to prevent persons from gaining unauthorized access to the Assembly Area, and having sufficient entrances and exits to allow safe and easy movement into and out of the Assembly Area. Parking areas intended to accommodate vehicles shall be exempted from inclusion within the fencing requirement, but shall be considered to be a part of the permitted premises.
- 20.4105 Noise Limitations. All necessary precautions shall be taken to ensure that the sound of the Large Gathering shall not carry unreasonably beyond the permitted premises. In no case shall the sound levels exceed Minnesota Rules establishing noise standards, Minnesota Rules, Chapter 7030, or Section 12.4000 of the Polk County Zoning Ordinance.
- 20.4106 Toilets. Separate enclosed toilets allowing for males and females, sufficient to accommodate the maximum number of persons to be assembled, shall be provided and shall be conveniently located throughout the permitted premises. Such facilities shall be provided in accordance with Minnesota Department of Health Standards.
- 20.4107 Solid Waste Disposal. The applicant shall maintain the permitted premises in a neat and orderly manner and shall provide a sanitary method of disposing of solid waste, which shall comply with the Polk County

Solid Waste Ordinance. This method of disposal shall be designed to be of sufficient size to contain the solid waste production of the maximum number of individuals to be assembled at the rate of at least 2.5 pounds of solid waste per person, per day. Polk County shall retain the right to increase the permitted premises' solid waste disposal capacity requirement as deemed appropriate. The applicant shall also provide a plan for collecting and removing of all such solid waste at least once per day during the Large Gathering or more often if deemed necessary.

- 20.4108      Parking. The applicant shall, at a minimum, provide a parking area of sufficient size to provide parking space for the maximum number of persons authorized to be assembled, based upon a calculated rate of at least one parking space for every three (3) persons. At a minimum, adequate handicapped designated parking spaces shall be provided in accordance with applicable Minnesota Rules governing the provision of such. If overnight camping is permitted a separate area shall be provided.
- 20.4109      Administrative Control Center. An administrative control center shall be provided by the applicant that shall be equipped with a telephone by which local authorities shall be able to contact the applicant and/or any law enforcement personnel inside the Assembly Area at any and all times during the Large Gathering. Additionally, the applicant shall provide a written plan on how the organization will monitor severe weather; notify attendees of severe weather and what attendees are recommended to do in the event of severe weather. One operational weather emergency radio shall be provided in the administrative control center.
- 20.4110      Medical Facilities. The applicant shall ensure the availability of at least one state-licensed emergency attendant and one registered nurse or an emergency medical technician licensed to practice in Minnesota, together with an enclosed, air-conditioned or heated facility, as appropriate, on the permitted premises wherein medical treatment may be rendered, containing at least two (2) beds for the first 1,000 persons and an emergency ambulance on the site of the Large Gathering staffed by at least two state-licensed emergency attendants. For Large Gatherings in excess of 1,000 persons, the necessity of additional medical facilities and personnel shall be determined by the Large Gathering Review Panel in consultation with the emergency medical providers for the Large Gathering. An emergency ambulance may not be required provided that all the equipment normally found on an ambulance is available onsite and a written agreement has been provided with the local area ambulance provider that they will be aware of the event.
- 20.4111      Security. The applicant shall prepare and implement a security, traffic, emergency communications, weather emergency, alcoholic beverage and narcotics control plan which shall meet the requirements of the Polk

County Emergency Management Director, Polk County Sheriff and the Minnesota Department of Public Safety. The plan shall provide for security guards who may be regularly employed law enforcement officers. At least one (1) security guard for the first 250 persons to assemble shall be provided. The Polk County Sheriff may modify this requirement as deemed appropriate and based upon a satisfactory operating history with the applicant. Additional security personnel shall be provided as deemed necessary by the County Board, upon recommendation of the Large Gathering Review Panel. Law enforcement personnel shall be provided as determined and deemed appropriate by the Polk County Sheriff. The operator of the Large Gathering shall pay a fee for this service. The fees to be paid are the current fees as established by the County Board for this service.

- 20.4112 Fire Protection. The applicant shall submit for approval to the Fire Marshall or Fire Chief of the Fire Department servicing the location of the Large Gathering, a plan providing for fire protection equipment, alarms and trained personnel. A copy of the fire protection plan shall be a part of the application.
- 20.4113 Lighting. Large Gatherings continuing during hours of darkness shall provide sufficient illumination to safely light the entire area of the permitted premises accessible to the public, but in no case less than at the rate of at least five (5) foot candles. Such illumination shall not unreasonably extend beyond the boundaries of the permitted premises.
- 20.4114 Duration of Assembly. For any Large Gathering, the applicant shall provide the following:
- A) Potable Water. Potable water must meet all Federal and State requirements for sanitary quality, sufficient to provide drinking water for the maximum number of persons to be assembled at the rate of at least one (1) gallon per person, per day. When a Large Gathering or any related activities are to continue for more than 24 consecutive hours, water for bathing at the rate of at least ten (10) gallons per person per day or incremental portion in excess thereof.
  - B) Public Telephones. Public telephones connected to outside lines sufficient to provide services to the maximum number of persons to be assembled at the rate of at least one (1) separate line and receiver for every 500 persons or any incremental portion in excess thereof. Cellular phones may be used to meet the requirements of this Section.

- 20.4115 Cleanup Plan. The applicant shall provide a plan for the removal and disposal of litter, garbage, staging, fixtures, sewage and other paraphernalia located within or upon the permitted premises.
- 20.4116 Food and Beverage Service. Food and beverage services may be provided at Large Gatherings, provided the requirements of the Minnesota Board of Health Rules regarding food and beverage services are met.
- 20.4117 Domestic Animals. Domestic animals or house pets are not permitted in the Assembly Area.
- 20.4118 Speed Limit. It shall be unlawful for any type of vehicle to travel at a rate in excess of 10 miles per hour while within the permitted premises where a Large Gathering is going to be held. This speed limit shall be clearly posted at all entrances and throughout the permitted premises.
- 20.4119 Vegetation and Drainage. The permitted premises must be located in areas free of poison ivy or other noxious weeds considered detrimental to a person's health. They must not be located in areas of tall grass or weeds and must be adequately drained.
- 20.4120 Alcoholic Beverages. Alcoholic beverages may be provided at Large Gatherings, provided the requirements of Section 13.7030 of the Polk County Zoning Ordinance are met.
- 20.4200 Special Event Camping Areas. Special Event Camping areas are recreational camping areas as defined in Minnesota Statutes, Section 327.14, subd.8; or successor statutes. These special event camping areas are used for 14 consecutive days or less and not more than twice annually by people attending or working events such as flea markets, music festivals, sporting events not excluded in the Large Gathering definition, or other community festivals or gatherings.
- 20.4210 If overnight camping is allowed at Large Gatherings, accommodations must be made for the maximum number of persons reasonably anticipated to remain overnight. These special event camping areas shall meet the following requirements:
1. Camping vehicles and tents, including their attachments, must be separated from each other and other structures by at least 10 feet.
  2. A minimum site area of 1,000 square feet per site must be provided. The total number of sites must not exceed one site for every 1,000 square feet of usable land area.

3. Each site must abut or face a driveway or clear unoccupied space of at least 16 feet in width, which space must be unobstructed access to a public roadway.
4. If no approved onsite water supply system is available, hauled water may be used, provided that Minnesota Rule, part 4720.4000 to 4720.4600; or successor rules is complied with.
5. Non-buried sewer lines may be permitted, provided they are of approved materials, water tight and properly maintained.
6. If a dump station is not provided on site, arrangements must be made with a licensed sewage pumper to service recreational camping vehicle holding tanks as needed.
7. Approved toilet facilities must be provided consisting of either toilets connected to an approved sewage treatment system or approved portable toilets.
8. Toilets must be provided in the ratio of one toilet for each sex for each 150 sites. Toilets must be located within 400 feet of any camping site.
9. If a central building or buildings are provided with running water, toilets and hand washing lavatories must be provided in accordance with the above ratio. Showers, if provided, must be provided in the ratio of one shower for each sex for each 250 sites. Showerheads must be provided where running water is available for each camping event exceeding two nights.
10. Central toilet/shower buildings, if provided, must be constructed with adequate heating, ventilation and lighting. Floors shall be made of an impervious material and sloped to drain. Walls must be made of a washable material. Permanent facilities must meet the requirements of the Americans with Disabilities Act.
11. An adequate number of durable, covered, watertight containers must be provided for all garbage and refuse.
12. Garbage and refuse must be collected as often as necessary to prevent nuisance conditions, but in no case shall collection be conducted less than that required in the cleanup plan defined in this section of the Ordinance.



13. A responsible attendant or caretaker must be available on site for any camping area during the Large Gathering.
14. Fires. No open fires shall be left unattended. No fuel shall be used and no material burned that emits dense smoke or objectionable odors. At no time shall garbage or refuse be burned on the premises.
15. Domestic Animals. No domestic animals or house pets shall be allowed to run at large or commit any nuisances within the limits of the camping area.
16. Electrical work. Any electrical wiring conducted in the camping area must be completed in conformance with the Minnesota Electrical Act, Minnesota Statutes, Sections 326.241 to 326.248; or successor statutes, and must be inspected by a State Electrical Inspector.

- 20.4300 Camping Facilities. If camping facilities are going to be open other than during a Large Gathering Event, they must comply with the Polk County Zoning Ordinance regarding recreational campgrounds and obtain a Conditional Use Permit for the campground. If the camping that is anticipated to occur at a Large Gathering meets the definition of Special Event Camping Areas, then the requirements in the above section of this Ordinance may apply.
- 20.5000 INSPECTIONS
- 20.5100 It shall be duty of the Department to inspect every Large Gathering in Polk County as frequently as may be necessary to ensure compliance with the Ordinance. Any person operating a Large Gathering shall, upon request of the Department and after proper identification, permit access to all parts of the property at any reasonable time for the purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain compliance with the Ordinance.
- 20.5200 Pre-inspection. Ten (10) days prior to the start of the Large Gathering, the Department shall inspect the property to determine whether the requirements of this Ordinance have been met.
- 20.5300 Inspection Findings. Whenever an inspection of a Large Gathering is made, the Department's findings shall be recorded on an inspection report form. One copy of the inspection report form shall be furnished to the owner or person in charge of the Large Gathering. The completed inspection report is a public document that shall be made available (for public disclosure) to any person who requests it.

- 20.5400 Timeframe for Correction of Violations. The inspection report form shall identify a specific and reasonable period of time for the correction of the violations found. Correction of the violations shall be accomplished within the period specified by the Department.
- 20.5500 Suspension of Permit and Licenses. Licenses and permits may be suspended temporarily by the Department at any time for failure by the permit holder to comply with the requirements of this Ordinance or the terms of the permit. Whenever the permit holder or operator has failed to comply with any notice requiring corrective action issued under the provisions of this Ordinance, the permit holder or operator may be notified in writing that the permit, upon service of the notice, is immediately suspended and that an opportunity for a hearing before the Board of County Commissioners will be provided upon a written request for an appeal filed with the Department by the license holder.
- 20.5600 Procedures for Permit Suspension. Whenever, upon inspection of a Large Gathering, the Department finds that conditions or practices exist which are in violation of any provision of this Ordinance, the Department shall give notice in writing to the operator of the Large Gathering, that unless such conditions or practices are corrected within a reasonable period of time, as determined by the Department, the operator's permit may be suspended. At the end of such period, the Department shall reinspect such Large Gathering, and if it is found that such conditions or practices have not been corrected, written notice will be given to the operator that their permit has been suspended. Upon receipt of notice of suspension of the permit, the operator shall immediately cease operation of the Large Gathering.
- 20.5700 Limited Permit Suspension. Nothing in this section shall be construed to prevent the Department from suspending a permit only as a portion of the premises that does not comply with the provisions of this Ordinance, permitting the continued operation of the remaining portions of such premises that do comply.
- 20.5800 Revocation of Permit. For serious or repeated violations of any of the requirements of this Ordinance, a permit may be revoked after an opportunity for a hearing before the Board of County Commissioners. Prior to such action, the Department shall notify the permit holder in writing, advising that the license shall be permanently revoked at the end of five (5) day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.
- 20.5900 Emergency Orders. Whenever the Department finds that an emergency exists which requires immediate action to protect the public health, safety or welfare, it may, without notice or hearings, issue an order reciting the

existence of an emergency and require that such action be taken as deemed necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. Any person to whom an emergency order is directed shall comply immediately.

20.6000 APPEALS

20.6100 Any persons who has been refused a permit to operate a Large Gathering or whose permit has been suspended or revoked, or who has received an emergency order or a notice that a permit is to be suspended or revoked unless existing conditions are corrected, may appeal that decision to the Board of County Commissioners.

20.7000 VARIANCES

20.7100 The Board of Adjustment may consider requests for variances from any of the requirements of this Ordinance when an applicant can show that strict compliance with this Ordinance would cause exceptional and undue hardship by the reason of the special nature of the proposed Large Gathering or by reason of the fact that the circumstances make the requirements of this Ordinance unnecessary; provided that such variances may be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of this Ordinance. Variance requests shall be acted upon prior to submitting an application for Large Gathering to the County.

20.8000 ENFORCEMENT

20.8100 The provisions of this Ordinance may be enforced by injunction in any court of competent jurisdiction, by any person. The holding of a Large Gathering in Polk County, whether on public or private land, in violation of any provision or condition contained herein, shall be deemed a public nuisance and may be abated as such.

## SECTION 21 - SUBSURFACE SEWAGE TREATMENT SYSTEMS

### 21.0000 PURPOSE AND INTENT

21.0100 The purpose of the sewage and wastewater treatment systems section of the Polk County Zoning Ordinance shall be to provide minimum standards for the regulation of Subsurface Sewage Treatment Systems (SSTS) and Midsized Sewage Treatment Systems (MSTS) within Polk County; including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water, groundwater and potable water from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under MN Statutes Chapters 115 and 145A, MN Rules Chapter 7080-7083 as amended and to local standards amending State law pertaining to sewage and wastewater treatment.

21.0200 It is intended by the County that Section 21 of the Polk County Zoning Ordinance will promote the following:

- A. The protection of lakes, rivers and streams, wetlands, and groundwater resources in Polk County essential to the promotion of public health, safety, welfare, and 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 and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and mitigation.
- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.

21.0300 SEPTIC SYSTEMS SETBACKS

Setback Standards	General Devel	Rec. Devel. Lakes	Natural Enviro. Lakes	Ag & Tributary Rivers	All Other Zoning Districts	LSVS Standards
Sewage Tank to the Ordinary High Water Mark of the lake (OHWM)	50 ft	75 ft	150 ft	75 ft.	N/A	N/A
Soil Treatment Area to OHWM	50 ft	75 ft	150 ft	75 ft.	N/A	N/A
Property line to septic tank or drain field	10 ft	10 ft	10 ft	10 ft	10ft	50ft
Road right-of-way to septic tank or drain field	10 ft	10 ft	10 ft	10 ft	10 ft.	50ft
Sewage tank to structure	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft
Drain field to structure	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft
Septic tank to well	50 ft	50 ft	50 ft	50 ft	50 ft	50 ft
Septic drainfield to well (> 50 ft well casing)	50 ft	50 ft	50 ft	50 ft	50 ft	100 ft
Septic drainfield to well (< 50 ft well casing)	100 ft	100 ft	100 ft	100 ft	100 ft	100 ft

21.1000 ALTERNATIVE LOCAL STANDARDS ADOPTED BY REFERENCE

21.1100 Polk County hereby adopts by reference the provisions of Minnesota Rules Chapters 7080-7083 in their entirety except as referenced under Section 21.1300, except as otherwise expressly modified by this Ordinance.

21.1200 When “2006 Version of Minnesota Rules Chapter 7080” is utilized, the reference is to the rules effective April 3, 2006, otherwise the County is referencing the current rules in effect.

21.1300 The County hereby adopts the 2006 version of Minnesota Rules Chapter 7080 for all new and existing residential Type I, Type II, and Type III SSTS and SSTS that serve any Food, Beverage and Lodging Establishment under 2,500 gallons per day provided the effluent discharge does not exceed the standards in Minnesota Rule 7080.2150, Subp. 3 (K).

21.2000 SSTS PRACTITIONER LICENSING

21.2100 No person shall engage in the site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of SSTS without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency in accordance with Minnesota Rules Chapter 7083, except as exempted under Part 7083.0700.

21.2200 An MPCA license is not required of an individual who is constructing a SSTS on land that is owned by the individual and functions solely as a dwelling for that individual pursuant to Minnesota Rule 7083.0700. Installation of the system shall be based upon a design by a licensed designer. The system shall be inspected by the Polk County Planning and Zoning office before it is covered.

21.3000 ADMINISTRATION

21.3100 COUNTY ADMINISTRATION

21.3110 The Polk County Planning and Zoning office shall administer all aspects of the SSTS program.

21.3120 Resolution of disputes between SSTS Certified Individuals regarding conflicting compliance inspections, determination of seasonally saturated soils and other technical issues shall follow Minnesota Rule 7082.0700, Subp. 5.

21.3200 STATE ADMINISTRATION

21.3210 When a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day or has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, the owner shall make application for and obtain a State Disposal System Permit from the MPCA.

21.3300 CITIES AND TOWNSHIPS ADMINISTRATION

21.3310 Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this section. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this section of the ordinance.

21.3400 LIABILITY

21.3410 The County's involvement in administration of this section of the Polk County Zoning Ordinance does not create a special duty to a person and, further liability or responsibility shall not be imposed upon the County or any of its officials, employees, or other contract agents, for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster SSTS regulated under this section or by reason of any standards, requirements, or inspection authorized by this section hereunder.

21.3500 EXISTING PERMITS

21.3510 Unexpired permits which were issued prior to the effective date of this Ordinance, or the 2014 revision thereof, shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system design, whichever is earlier.

21.3600 UPGRADE, EXPANSION, REPAIR, RECONSTRUCTION,  
REPLACEMENT, OR ABANDONMENT

21.3610 SSTS Capacity Expansions - Expansion of an existing SSTS must include any system upgrades that are necessary to bring the system into compliance and the upgrades must follow the prevailing provisions of this Ordinance at the time of the expansion. Expansions may include addition of bedrooms and replacement of a home.

21.3620 Bedroom Addition - Any addition to a structure that includes bedroom(s) that require a land use permit from the County shall require a compliance inspection before any land use permit can be issued. A failing system must be upgraded in accordance with this ordinance and Section 21.3630 and 21.3640. The SSTS shall meet the required design flow or be upgraded to meet Class 1 sizing for both the septic tank(s) and soil absorption area.

21.3630 Failure to Protect Groundwater - An SSTS that is determined not to be protective of groundwater shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 2 years upon receipt of a Notice of Noncompliance.

21.3640 Imminent Threat to Public Health or Safety - An SSTS posing an imminent threat to public health or safety shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 10 months upon receipt of a Notice of Noncompliance. The Administrator may require interim measures to be implemented for the continued use or disposition of the SSTS until such time as the SSTS has been deemed compliant.

21.3650 Abandonment - Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with 2006 Minnesota Rule 7080.0176.

21.3700 SSTS IN FLOODPLAINS

21.3710 SSTS shall not be located in a floodway. Wherever possible, construction of SSTS within any part of a floodplain should be avoided. If no practical option exists to locate a SSTS outside of a floodplain, location within the floodplain is allowed if the requirements in Minnesota Rule 7080.2270 and all relevant local requirements are met.

21.3800 CLASS V INJECTION WELLS

21.3810 All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, Title 40, Part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in 40 CFR Part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

21.3900 PROHIBITIONS

21.3910 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 Ordinance that results in raw or partially treated wastewater to seep to the ground surface or to flow into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

21.3920 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 Rule 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.

21.3930 Discharge of Hazardous or Deleterious Materials – It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

21.4000 PERMITTING, DESIGN AND INSTALLATION STANDARDS

21.4010 PERMITTING

21.4020 No person shall construct, reconstruct, alter, repair, or extend any individual sewage treatment system in the County without first applying for and obtaining a permit from the Polk County Planning and Zoning office and at the same time paying a fee as noted at said office.

21.4030 Activities Requiring a SSTS Permit - All contractors, property owners or other persons having charge of the SSTS construction, replacement (including tanks and dispersal systems), repair, or modification of components of SSTS, shall obtain a SSTS Permit prior to starting construction. Permits shall be granted upon receipt of a completed application, which shall include a compliant design for the SSTS and the appropriate for the application submitted. Permits shall be issued only after the submitted design has been reviewed and approved by Administration. A site review or soil verification may be required, at the



Administrators' discretion, in order to approve any SSTS Permit application.

- 21.4040 Activities Not Requiring a SSTS Permit – A SSTS construction permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
- 21.4050 SSTS Permit Expiration - The SSTS Permit is valid for a period of two (2) years from its date of issue. An extension of the permit may be granted at the discretion of the Administrator.
- 21.4060 Transferability – A SSTS Permit may be transferred to a new owner provided the new owner follows the design and permit as it has been issued.
- 21.4070 Operating Permits - An Operating Permit shall be required of all owners of Type IV, Type V and MSTs.
- 21.4080 Management Plans - Management plans for all new or replacement Type IV, Type V and MSTs shall be provided by the licensed designer. The plans shall include operating, monitoring and maintenance requirements for the new or replacement system. For all systems without a Management Plan or Operating Permit, Homeowners are recommended every three years to maintain their sewage tank per instructions found in MN Rules 7080.2450.
- 21.4090 Holding Tanks – Holding Tanks may be permitted for the following applications: as replacements for existing failing SSTS and SSTS that pose an imminent threat to public health or safety, on lots with limitations that will not allow for the installation of a Type 1 SSTS, buildings with limited water use, or for uses that are seasonal or intermittent in nature. All property owners are required to submit a completed Holding Tank Servicing Agreement with a Licensed Maintainer at the time of application.
- 21.4100 DESIGN STANDARDS
  - 21.4110 Soil Borings.
    - 21.4111 Design standards for soil borings shall conform to the requirements of 2006 MN Rules Part 7080.0110.
    - 21.4112 A minimum of one soil boring is required per drainfield site.
    - 21.4113 One soil boring is required for the placement of the soil treatment system within a 50 foot radius of that boring. If any portion of the

soil treatment system will be constructed outside of that 50 foot radius of the soil boring, an additional boring will be required for each additional 50 foot radius around the respective boring as needed for the soil treatment system.

21.4114 Percolation tests may not be used as a substitute for a soil boring, but can be used in conjunction to the soil boring(s).

21.4120 Sizing Standards.

21.4121 Septic systems, including septic tanks and soil treatment systems; will be sized and designed as required in 2006 MN Rules Parts 7080.0125 to 7080.0170 and MN Rules Part 7080.0178.

21.4122 As an alternative to using soil loading rates determined in 2006 MN Rules Parts 7080.0170 Table V and Table Va soil loading rates may be determined as outlined in MN Rule 7080.2150, Subp. 3, item E, Tables IX or IXa.

21.4123 Systems may employ registered products as determined in MN Rule 7080.2150, Subp. 3, item A.

21.4124 Septic systems shall be designed according to a Type I classification, unless proof of necessity for a Type II classification is provided to the satisfaction of Administration.

21.4125 Type III classified septic systems will not be allowed unless it is approved by a majority of the Polk County Board of Adjustment.

21.4130 Location Standards.

21.4131 Design Standards for the placement of septic system shall be in conformance with site evaluation standards of 2006 MN Rules Parts 7080.0110

21.4132 All lots created after January 23, 1996 must have a minimum of two soil treatment areas that can support a standard system.

21.4200 INSTALLATION STANDARDS

21.4210 Installation standards shall be in conformance with 2006 MN Rules Parts 7080.0130 to 7080.0175 and MN Rules Part 7080.2030.

21.5000 LOCAL STANDARDS FOR VERTICAL SEPARATION (LSVS)

Minnesota Rules, Chapter 7080 are hereby modified by the following technical standards to allow for the continuance or construction of in-ground trench-type SSTS within Polk

County, where applicable.

21.5100 “LSVS” shall not apply in the following areas:

- A) well construction and location and wellhead protection areas regulated under MN Ch. 1031;
- B) systems used in conjunction with food, beverage and lodging establishments, regulated under MN Ch. 157;
- C) systems in Shoreland areas regulated under MN Statutes sections 103F.201 to 103F.221.

21.5200 LSVS shall apply in the following soil types as delineated in the 2003 Soil Survey of Polk County:

- A) Somewhat excessively drained:

341B	Arvilla sandy loam, 1 to 4 percent slopes
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- B) Well drained:

20B	Chappett fine sandy loam, 2 to 6 % slopes	718B	Naytahwaush loam, 2 to 8 % slopes
20C2	Chappett fine sandy loam, 6 to 12% slopes	718C	Naytahwaush loam, 8 to 15 % slopes
20D2	Chappett fine sandy loam, 12 to 20 % slopes	718E	Naytahwaush loam, 15 to 30 % slopes
20E	Chappett fine sandy loam, 20 to 40 % slopes	735B	Halverson loamy fine sand, 1 to 6 % slopes
38B	Waukon loam, 2 to 6 % slopes	735C	Halverson loamy fine sand, 6 to 15% slopes
38C2	Waukon loam, 6 to 12 % slopes, eroded	827B	Heimdal-Esmond complex, 2 to 6% slopes
38D2	Waukon loam, 12 to 20 % slopes, eroded	827C2	Heimdal-Esmond complex, 6 to 12% slopes
45B	Maddock loamy fine sand, 1 to 6 % slopes	967B	Waukon-Langhei complex, 2 to 6% slopes
45C	Maddock loamy fine sand, 6 to 12 % slopes	967C2	Waukon-Langhei complex, 6 to 12% slopes
45E	Maddock loamy fine sand, 12 to 20 % slopes	979D2	Langhei-Waukon complex 12 to 20% slopes
185D2	Hattie clay, 6 to 18 % slopes, eroded	1152B	Sugarbush loamy sand, 1 to 8% slopes
494B	Darnen loam, 2 to 6 % slopes	1152C	Sugarbush loamy sand, 8 to 15% slopes
694D2	Zell silt loam, 6 to 20 % slopes, eroded	1152E	Sugarbush loamy sand, 15 to 30% slopes
707A	Lizzie silt loam, 1 to 3 % slopes	1233D	Esmond-Heimdal complex, 12 to 20% slopes

- C) Moderately well drained:

59	Grimstad fine sandy loam	667B	Fairdale silt loam, 1 to 6 % slopes
65	Foxhome sandy loam	667C2	Fairdale silt loam, 6 to 15 % slopes, eroded
66	Flaming loamy fine sand	670	Knute fine sandy loam
184A	Hamerly loam, 0 to 3 % slopes	671	Onstad loam
422A	Bygland silty clay loam, 0 to 2 % slopes	713	Linveltdt fine sandy loam
422B	Bygland silty clay loam, 2 to 6 % slopes	737	Mahkonce loam
422C2	Bygland silty clay loam, 6 to 12 % slopes	1264	Ulen loamy fine sand
426	Foldahl loamy fine sand	1304A	Glyndon very fine sandy loam, 0 to 2 % slopes
506	Overly silty clay loam	1304B	Glyndon very fine sandy loam, 2 to 6 % slopes

565	Eckvoll loamy fine sand	1315A	Wheatville very fine sandy loam, 0 to 2 % slopes
643	Huot fine sandy loam	1323B	LaDelle silt loam 0 to 3 % slopes,
647	Hilaire loamy fine sand	1874	Radium loamy sand
650	Reiner fine sandy loam		

D) Somewhat poorly drained:

67A	Bearden silt loam, 0 to 2 % slopes	791	Winterfield loamy fine sand
67B	Bearden silt loam, 2 to 6 % slopes	908	Bearden-Fargo complex
93A	Bearden silty clay loam, 0 to 2 % slopes	1280	Gunclub silty clay loam
296	Fram loam	1963	Bearden-Colvin complex
704	Wyrene sandy loam		

21.5300 Site evaluation – all licensed septic designers shall perform a minimum of four soil borings in the proposed area, and at least one boring in the proposed alternate site where the soil dispersal unit is to be constructed. All soil borings shall be to a depth of no less than seven (7) feet or to the restrictive layer.

21.5400 System installation – trench-type systems allowed under this subsection shall be installed to a depth no greater than eighteen (18) inches below grade and shall have no more than six (6) inches of rock below the distribution pipe.

21.5410 Chambers allowed under this subsection shall be installed to a depth no greater than eighteen (18) inches below grade and no reduction in bottom area will be allowed for determining trench length.

21.5500 Vegetation – existing vegetation may be an indicator of soil saturation frequency. Installation of trench-type systems on areas where wetland plants and trees exceed 50% of the site vegetation is prohibited. Wetland plants and trees shall be defined by the U.S. Department of the Interior, Fish and Wildlife Service National List of Plants Species that Occur in Wetlands.

21.5600 Lot size – Minimum of five (5) acres

21.5700 Natural or Artificial Drainage – A drainage plan shall be provided with each Certificate of Compliance to the Polk County Zoning Office upon completion of each trench-type SSTS. The plan must designate existing drainage features and any proposed drainage. The plan must specify surface and/or groundwater flows relative to the proposed sewage system, as well as the locations of all public and private drainage systems. If additional ditching or tile systems are proposed, a minimum twenty (20) foot setback must be maintained from the proposed drainfield area.

21.5800 Site suitability information – The use of the soil survey of Polk County, a properly conducted site evaluation, including soil testing, documentation of existing vegetation and evaluation of on-site drainage is required to size systems and determine site suitability.

21.5900 Other criteria

- A) Trench-type systems allowed under this subsection shall have at least two (2) feet of vertical separation from the bottom of the distribution medium to soils with any indication of soil saturation including soil color and/or soil mottling.
- B) Trench-type systems allowed under this subsection shall be a minimum of one hundred (100) feet from a water-supply well.
- C) Trench-type systems allowed under this subsection shall be a minimum of fifty (50) feet from any property line.
- D) Trench-type systems allowed under this subsection may not be alternative or other systems as defined in 2006 MN Rules Chapter 7080.0172 and 7080.0178.
- E) LSVS and systems installed utilizing LSVS are not subject to modification through the variance or conditional use process as defined in sections 5.3000 and 7 of this ordinance, respectively.

21.6000 INSPECTION STANDARDS FOR NEW SEPTIC SYSTEMS

21.6100 All septic systems shall be inspected in conformance with 2006 MN Rules Part 7080.0315.

21.6200 Polk County Zoning officials are responsible to inspect all new septic systems for which a permit has been issued and upon receiving a minimum of 24 hour notice; unless an alternative method is approved by Administration.

21.6300 Polk County Zoning Administration shall be responsible to document each inspection, and keep on file a copy of same inspection in a format approved by Administration.

21.6400 Any system designed, installed, or covered without having first been inspected and found to be in compliance with Section 21 of the Polk County Ordinance shall be declared failing and an imminent public health threat.

21.7000 INSPECTION STANDARDS FOR EXISTING SEPTIC SYSTEMS

21.7100 All existing septic systems shall be inspected by a licensed septic inspector in accordance with 2006 MN Rules 7080.0315.

21.7200 Except systems located in areas as described in Section 21.5100, all systems built before April 1, 1996 and all systems permitted under “Local Standards for Vertical Separation” as described in Section 21.5000 of this ordinance must have at least two feet of vertical separation as measured outside the area of system influence in an area of similar soil.

21.7300 Vertical Separation Reduction – Minnesota Rule 7080.1500, Subp. 4 (D) is hereby adopted allowing a 15 percent reduction in vertical separation distance for settling of sand or soil, normal variation of measurements and interpretations of the limiting layer for existing SSTS that were designed and installed with at least a three foot vertical separation distance. This reduction does not apply to systems constructed with “Local Standards for Vertical Separation” as described in Section 21.5000 of this ordinance.

21.8000 NONCONFORMING SEPTIC SYSTEMS

21.8100 Existing septic systems which do not meet current codes for new systems, but are not either failing or an imminent health threat, shall be grandfathered in until they are found to be failing or an imminent public health threat.

21.9000 ENFORCEMENT

21.9100 If a system is failing according to the requirements in 2006 MN Rules Ch. 7080, a Notice of Noncompliance shall be issued and copies provided to the property owner and to the County within 30 days under the following conditions:

- A. A failing system shall be upgraded, replaced or its use discontinued within two years. Polk County Administration will give consideration to weather conditions as it establishes compliance dates.
- B. A failing system posing an imminent threat to public health or safety shall be upgraded, replaced or repaired, or its use discontinued, within an appropriate time no greater than 10 months.

21.9200 The Administration shall determine interim measures to be taken by the landowner to ensure the public health and safety are protected between identification of the imminent public health threat and the time the system is brought into compliance.

21.9300 Any person who violates any provisions of this Ordinance or who makes any false statement on a Certificate of Compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both as defined by law.

21.9400          VARIANCES

21.9410          A property owner may request a variance from the standards as  
pursuant to Section 5 of this Ordinance.

21.9420          Variances that pertain to the standards and requirements of the  
State of Minnesota must be sent to the affected State Agency for  
comment pursuant to the requirements of that State Agency.

## SECTION 22 - SUBDIVISION REGULATIONS

- 22.0000 All divisions of land submitted for approval under this Section, whether by minor subdivision, or platted subdivision shall conform to the Zoning requirements of this Ordinance for the zoning district where the parcel(s) of land are located.
- 22.0050 Specific subdivision and plat requirements or the triggering of the plat requirement caused by the proposed creation of a 4<sup>th</sup> or subsequent lot from a parent parcel may be waived at the discretion of the Zoning Administrator if the split is performed to correct non-conforming property or boundary issues.
- 22.0065 The plat requirement caused by the proposed creation of a 4<sup>th</sup> or subsequent lot from a parent parcel may be waived at the discretion of the Zoning Administrator if both the parent and new parcel(s) of land each exceed 20 acres.
- 22.0080 The plat requirement caused by the proposed creation of a 4<sup>th</sup> or subsequent lot from a parent parcel may be waived at the discretion of the Zoning Administrator if the previous split has not occurred in the last 10 years.
- 22.0100 Minor subdivision. The proposed creation, either through division, consolidation or combination thereof, of property in which two (2) - four (4) individual lots, including the original lot and any residual outlots, shall follow the standards set forth in 22.1000.
- 22.0200 Platted subdivision. The proposed creation, either through division, consolidation or combination thereof, of property in which five (5) or more individual lots, including the original lot and any residual outlots, shall follow the standards set forth in 22.2000.
- 22.0300 Any survey of property in the unincorporated areas of Polk County, or within any incorporated area of Polk County, except the City of Crookston or the City of East Grand Forks, shall be filed with the Polk County Planning and Zoning office within 30 days of survey completion.
- 22.0400 Subdivision of land in Polk County.
- a. Surveyors. Any Certificate of Survey provided to Polk County as part of a subdivision application shall be made by a registered land surveyor licensed in the State of Minnesota, in compliance with the laws of Minnesota and the requirements of this Ordinance,



and bearing the surveyor's registration number.

- b. Conformance. No minor subdivision or platted subdivision shall be recorded in the Polk County Records Office, or have any validity, until the proposed subdivision has been prepared, reviewed and approved in the manner prescribed in this Ordinance.
- c. Building Permits. No building permits shall be issued by Polk County for the construction of any building, structure or improvement to the land or to any lot in an unrecorded or unauthorized subdivision until all requirements of this Ordinance have been complied with.
- d. Platted lots must conform to all of the official controls adopted by this ordinance. The Planning Commission/ Board of Commissioners must not approve plats that are designed so variances from one or more standards in the official controls would be needed to use the lots for their intended purpose. Lot areas shall meet sizing standards within the land use district as defined by this ordinance and shall have adequate room for two standard subsurface sewage treatment systems. Lots that would require use of only holding tanks must not be approved. Lots shall be evaluated for limiting factors including but not limited to depth of groundwater or impervious layer, slope, flooding potential, and other limiting factors.

22.1000 Minor Subdivision Procedures. All proposed minor subdivisions of land shall be processed as follows:

22.1100 Public hearing. No public hearing is required to process and approve an application for a Minor subdivision if all lot criteria standards are met for the property location and zoning district.

- a. In the event that one or more substandard outlot(s) are proposed to be created, development restriction covenants may be required by the Administrator to be recorded with the Certificate of Survey; or
- b. The applicant can request a hearing with the Planning Commission to place development restriction covenants on the substandard outlot(s). (The Planning Commission's decision would be final and binding); or
- c. The applicant may apply for a variance for the substandard lot(s) if the applicants proposed use would be that of a compliant lot. The variance would need to be granted in order to avoid having development restriction covenants placed on the lot(s) as described in 22.1100 subp. a or 22.1100 subp. b.

- 22.1200 A preliminary sketch of the proposed Minor subdivision shall be submitted to the Polk County Zoning office for review prior to submitting a Minor subdivision application and any Certificate of Survey to be recorded. The preliminary sketch shall be submitted five (5) working days prior to submitting the application for Minor subdivision and the recommended Certificate of Survey.
- 22.1300 An application for Minor subdivision must be completed and returned with the recommended Certificate of Survey. The application for Minor subdivision must be completed on forms provided by the County.
- 22.1400 The application and recommended Certificate of Survey shall be submitted to Polk County Auditor's office.
- 22.1500 The recommended Certificate of Survey shall comply with the Certificate of Survey standards listed in 22.6000.
- 22.2000 Platted Subdivision Procedures. All proposed platted subdivisions of land shall be processed as follows:
- 22.2100 Pre-application meeting. Before preparing sketch plans of any development, the developer is requested to discuss with the Planning Office the procedure for authorization of the development.
- 22.2200 The developer shall submit to the Planning Office a sketch plan of the development, together with an application for a subdivision permit. Upon receiving the sketch plan and application for the subdivision permit, the Planning Office shall review the plat for conformance with the regulations and site characteristics for development suitability.
- 22.2220 Sketch plan approval. Upon sketch plan review and a possible visit to the site, the Polk County Planning Office shall approve, conditionally approve with the conditions stated, or disapprove the sketch plan in writing. If approved, the developer shall certify in writing that they agree to all requirements of these regulations together with any additional requirements or conditions as stipulated in the Planning Office's approval.
- 22.2230 Where any city has adopted extra-territorial subdivision platting regulations as provided by State law, any proposed plat lying within two miles of said city shall be submitted to, and approved by, said city. Where any township in Polk County has adopted platting regulations or does their own permitting; any proposed plat lying within said township shall be submitted to, and approved by, said township.

22.2300 Approval from the Planning Commission.

22.2310 The preliminary plat shall be submitted to the County Planning Commission at least thirty (30) days prior to a Planning Commission meeting at which consideration is requested. The County Planning Commission shall hold a public hearing on the preliminary plat. Notice of public hearing shall be in a paper of general circulation and sent to the ten (10) closest property owners to the proposed land to be subdivided. The subdivider may attend the Planning Commission meeting that addresses the said preliminary plat.

22.2320 The Planning Commission shall act on each plat submitted within sixty (60) days of the date of submission. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Planning Commission.

22.2400 Approval from County Board of Commissioners.

22.2410 After the public hearing and review of the preliminary plat by the Planning Commission, such preliminary plat, together with the recommendations of the Planning commission, shall be submitted to the County Board for consideration. The subdivider may attend the County board meeting that addresses the said preliminary plat.

22.2420 The County Board shall act on each plat forwarded by the Planning Commission within sixty (60) days after submission to the County Board. Approval or disapproval of the preliminary plat shall be conveyed to the subdivider in writing within ten (10) days after the meeting of the County Board at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the County Board.

22.2430 The approval of the preliminary plat shall authorize the developer to prepare a final plat in conformance with the layout of the preliminary plat. (In order to speed the process of approval of the final plat, the Planning Commission may waive its authority to review the final plat. If the final plat is substantially different from the preliminary plat authorized by the Planning Commission, the Planning Commission shall review the final plat.)

22.2500 Review of final plat. Within six (6) months of preliminary plat approval, the developer shall submit a final plat. The plat may contain only that

portion of the approved preliminary plat which he/she proposed to record. Failure to meet with this provision shall void the preliminary plat, and the developer must submit a new preliminary plat for approval from the Planning Commission and the County Board.

- 22.2510 The final plat and application for review shall be submitted to the Planning Office thirty (30) days prior to the Planning Commission meeting at which it is to be considered.
- 22.2520 Upon approval by the Planning Commission, the Planning Office shall forward the plat to the County Board of Commissioners for issuance of the final development approval and signatures.
- 22.2530 The developer shall file with the Planning Office a sufficient number of copies, as determined by the Planning Office, for distribution to the appropriate County departments.
- 22.2600 The developers application approval shall become final upon receipt of a certified copy of the plat and the filing of the plat and any additional agreement or issuances with the County Recorder.
- 22.2650 Recording the final plat. Within sixty (60) days of being notified of final plat approval, the developer shall record the final plat. Failure to meet with this provision shall void the plat, and the developer must submit a new preliminary plat for approval from the Planning Commission and the County Board.
- 22.2700 Presentation Requirements.
- 22.2710 Setbacks, dimensions, and frontage for the proposed plat shall not be less than those required by the applicable section in the Polk County Zoning Ordinance.
- 22.2720 The preliminary and final plat application requirements include, but are not limited to:
1. Scale: 1 inch equals 100 feet (minimum).
  2. Location by section, township, range or by other legal description.
  3. Names and addresses of the owner, subdivider, surveyor, and designer of the plat.
  4. The size (in sq.ft.) and dimensions of lots, plat, and thoroughfares.

5. North-point and Date of preparation
6. Outside boundary lines designated by bearing or angles and distances, curves by radii, central angle and arc length.
7. All curve line and individual lots to include radii, central angle, and arc length.
8. The location of monuments, where monuments are set at all angle and curve points.
9. Public grounds shown - dedications and purpose (easements). Utilities easements at least ten (10) feet wide shall be provided for utilities where necessary. Where a subdivision is transverse by a water course or drainage way, there shall be provided a storm water easement or drainage right-of-way.
10. Methods for controlling stormwater runoff and erosion (before and after construction).
11. Location of lots, street, roads, highways, alley, parks and other features, with accurate dimensions in feet with the length of radii and/or arcs of all curves.
12. Plans for the provisions of drinking water, conforming septic systems, drainage and flood control.
13. Extent of anticipated vegetation and topographic alterations.
14. Minimum building setback distances from the top of bluffs, roads, lakes, streams, rivers, and adjacent property lines.
15. Certification by a registered land surveyor to the effect that the plan represents a survey made by him and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct.
16. Benchmark location and elevation shown.

22.2721 In Floodplain areas, you must include:

17. All lots within the floodplain districts shall contain a building site at or above the Regulatory Flood Protection Elevation in accordance with Parts 17.0000 to 17.9034 of this Ordinance. All subdivisions shall have road access both to the subdivision and to

the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation.

22.2722 In Shoreland areas, you must include:

18. Notification to the Department of Natural Resources.
19. Rivers, streams, creeks, lakes, ponds, swamps boundaries must have a survey line showing bearings and distances between angle points.
20. Line or contour showing Ordinary High Water Level, and the toe and top of bluff.
21. Water elevation must be shown and dated.

22.2730 Roads, Highways, and Alleys.

22.2731 The proposed plat must have frontage on a public road, and must meet the following requirements:

- A. The access meets the access requirements of the affected road authority.
- B. The road authority will grant an access permit.

22.2732 If platted lots shall not have frontage on a public road, a private road must be constructed to meet the requirements specified in Minnesota Rules Chapter 8820.9920 and be served by a road agreement recorded with the deed of each lot with frontage on the private road.

22.2733 Street or road design features:

- A. Street or road layout; including width, length, and surfacing must be built to those requirements specified in Minnesota Rules Chapter 8820.9920 "Geometric design standards for rural and suburban undivided new or reconstruction projects". A copy of the most current standards will be kept at the Polk County Zoning Office.
  1. The plat must state the minimum state requirements for the width, length, and surfacing of the proposed road. The road must then be built to at least the minimum requirements of the road dimensions

stated. After construction, either an employee from the zoning office or a township or county road official must verify the dimensions.

2. The plat cannot be recorded until the road has been built to those specified dimensions and verified by the appropriate authority listed in Section 22.2732 A. 1

B. If practical, streets shall intersect at right angles.

C. Where the plat submitted includes only part of the tract owned or intended for development, a tentative plan of a proposed future street and road system for the portion shall be prepared and submitted by the subdivider.

## 22.3000 Lot Standards

22.3100 All lots shall be created to conform to the standards set forth in the applicable section of the Zoning Ordinance for that Zoning District in which the property is located, except as follows:

22.3200 Any subdivision of land where the lots are not intended to comply with the applicable lot standards for the appropriate Zoning District shall be processed as a PUD, following the standards of Section 18.4300 and 18.4600.

22.3300 Flag Lots. A Flag Lot may be created through Minor subdivision, as provided below, only where an existing farmstead is located so far from the public road that creation of an independent lot, with requisite frontage on said road, would adversely impact the continuation of the farming operation.

22.3310 Minimum lot size of 1.5 acres, excluding any easements for property access.

22.3320 Access is provided by a permanent and perpetual easement from the public road to the new lot. Said easement for any new lot shall be 66' wide. Lots existing prior to May 1, 2007 shall have adequate permanent and perpetual easement to serve the property with no minimum width specified.

22.3321 Ownership of the access shall be acceptable in lieu of an easement, but the square footage of the access shall not figure into the minimum area or minimum lot length and width standards to determine if the lot is a buildable lot.

- 22.3330 Access easement shall be recorded with the deed.
- 22.3340 Only one lot shall be created from the existing farmstead, no additional lots may be served by the access easement.
- 22.3350 Deed restriction shall be recorded to prohibit any further subdivision of the Flag Lot created.
- 22.3360 Flag lots shall be allowed in the General Agricultural Zoning District or in the Flood Fringe or General Floodplain Overlay District, or on a Natural Environment Lake in the Shoreland District provided that the access meets the road requirements of Section 17.5510.
- 22.4000 Instructions for Certificate of Surveys for Minor Subdivisions (optional) and Platted Subdivisions (mandatory).
  - 22.4100 Requirements. Certificate of Surveys for any subdivision allowed under this Ordinance shall meet the following requirements:
    - A. Show original tax parcel number; and
    - B. Contain updated legal description of original plus each lot proposed to be created; and
    - C. Show access easement serving proposed Flag Lot; and
    - D. Delineate Ordinary High Water Mark (in Shoreland areas); and
    - E. Recommend (not required) identifying existing structure locations and/or tanks, drainfields, wells, etc..
  - 22.4200 Format. Certificate of Surveys for any subdivision allowed under this Ordinance shall be in the following format:
    - A. Survey submitted on 11" X 17" paper, or shall be submitted in electronic version (DXF Format, if possible); and
    - B. Survey shall be tied to two (2) legal government corners, and record said government corners; and
    - C. Survey preferred in Polk County Coordinate System – Zone 15
- 22.5000 Processing of Surveys.
  - 22.5100 Minor Subdivision. The following is the process for recording minor



subdivision applications and any surveys done under the Minor Subdivision regulations:

- A. Upon conforming to 22.1000, the applicant submits a completed application and any properly formatted Certificate of Survey for Minor Subdivision to the Polk County Auditor's office.
- B. The Polk County Auditor shall notify the Polk County Zoning Administrator of the completed application and any Certificate of Survey. The Zoning Administrator shall review the application and survey for compliance with the Polk County Zoning Ordinance.
- C. Upon Zoning Administrator approval, the original minor subdivision application and any Certificate of Survey shall be marked as approved with the Official Seal.
- D. The Auditor will assign tax parcel numbers for each new lot created.
- E. The original minor subdivision application and any Certificate of Survey shall be recorded in the office of the Polk County Recorder, and scanned into the County system.
- F. Upon recording, the original minor subdivision application and Certificate of Survey will be kept on file at the Polk County Zoning office, and the electronic copy will be filed with the Polk County Highway department for incorporation into the County's Parcel Map.

## SECTION 23 RENEWABLE ENERGY AND TOWER MANAGEMENT

### 23.0000 PURPOSE

- 23.0010 This section of the ordinance is established to set forth processes for permitting Renewable Energy from eligible energy technology as described in Minnesota Statutes 216B.1691, to promote the health, safety, and general welfare of the citizens of Polk County, and shall include the following:
- A. This ordinance is established to guide and regulate the installation and operation of Wind Energy Conversion Systems (WECS) of less than 25,000 kilowatts (kW) or 25 megawatts (MW) within Polk County not otherwise subject to siting and oversight by the State of Minnesota pursuant to Minnesota Statutes, chapter 216F, Wind Energy Conversion Systems, as amended.
  - B. This ordinance is established to maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary in order to provide wireless telecommunications services or other services to the community.
  - C. This ordinance is established to set forth standards to guide and regulate the installation and operation of large and small Solar Energy Systems within Polk County pursuant to Minnesota Statutes Chapters 216C.25, 500.30, and Minnesota Rules Chapter 1325.1100, as amended.

### 23.1000 DEFINITIONS.

The following words or phrases of and within this section shall be interpreted as follows:

- 23.1005 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.
- 23.1010 Array – Solar – Any number of photovoltaic modules or panels connected together to provide a single electrical output.
- 23.1015 Commercial WECS - A WECS of equal to or greater than 100 kW in total name plate generating capacity.
- 23.1020 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. This area is less than the total height of the structure.

- 23.1025 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.
- 23.1030 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.
- 23.1035 Ground-Mounted – Free standing solar panels mounted to the ground by the use of poles, stabilizers, or a similar apparatus.
- 23.1040 High-voltage transmission line - A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.
- 23.1045 Meteorological Tower - For the purposes of this Wind Energy Conversion Systems 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.
- 23.1050 Micro-WECS - Micro-WECS are WECS of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.
- 23.1055 Non-Commercial WECS - A WECS of less than 100 kW in total name plate generating Capacity.
- 23.1060 Photovoltaic (PV) Array – A group of solar photovoltaic modules connected together to increase voltage and/or power to the level required for a given system.
- 23.1065 Photovoltaic Device – A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.
- 23.1070 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.

- 23.1075 Roof Mounted or Building Mounted – A system which is mounted on the roof or building using brackets, stands, or by other means.
- 23.1080 Rotor diameter - The diameter of the circle described by the moving rotor blades.
- 23.1085 Solar Easement – A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar sky space for the purpose of ensuring adequate exposure of a solar energy system as defined in Minnesota Statute Section 216C.06, Subdivision 17, to solar energy. Required contents of a Solar Easement are defined in Minnesota Statute Section 500.30.
- 23.1090 Solar Energy System - A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy by transferring heat from a collector to another medium using mechanical, electrical or chemical means.
- 23.1095 Solar Energy Systems (Accessory) - A solar panel or array mounted on a building, pole or rack which is directly connected to or designed to serve the energy of the primary use.
- 23.1100 Solar Farms – A solar array compound of multiple solar panels on ground-mounted racks or poles which is not directly connected to or designed to serve the energy needs of the primary use but rather for the primary purpose of wholesale sales of generated electricity. Solar farms include but are not limited to community solar gardens which are defined as a solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minn. Statutes 216B.1641 or successor statute. A community solar system may be either an accessory or a principle use.
- 23.1105 Substations - Any electrical facility designed to convert electricity produced by wind turbines to a voltage for interconnection with transmission lines.
- 23.1110 Total height - The highest point, above ground level, reached by a rotor tip or any other part of the WECS.
- 23.1115 Total Nameplate capacity – The total of the maximum rated output of the electrical power production equipment for a WECS project.
- 23.1120 Tower - Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

- 23.1125 Tower height - The total height of the WECS exclusive of the rotor blades.
- 23.1130 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.
- 23.1135 Wind Turbine - A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

#### 23.2000 DEVELOPMENT OF WECS PROCEDURES

- 23.2010 Land Use Permits and Conditional Use Permits shall be applied for and reviewed under the procedures established in the Polk County Zoning Ordinance, except where noted below.
- 23.2020 The application for all WECS shall include the following information:
- a. The names of project applicant.
  - b. The name of the project owner.
  - c. The legal description and address of the project.
  - d. A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
  - e. Site layout, including the location of property lines, 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.
  - f. Documentation of land ownership or legal control of the property.
  - g. Evidence of a Power Purchase Agreement.
  - h. The latitude and longitude of individual wind turbines.
  - i. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the Proposed WECS.
  - j. Description of potential impacts on nearby WECS and wind resources on adjacent properties.
  - k. FAA Permit Application.

l. Location of all known Communications Towers within 2 miles of the proposed WECS.

m. Decommissioning Plan

### 23.2100 WECS DISTRICT REGULATIONS

23.2110 WECS will be permitted (accessory use), conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below:

District	Micro-WECS ≤ 1kW	Non-Commercial < 100 kW	Commercial ≥ 100 kW	Meteorological Tower
General Agriculture	Permitted	Permitted	Conditionally Permitted	Interim Use Permit
Village	Conditionally Permitted	Conditionally Permitted	Not Permitted	Interim Use Permit
Commercial	Permitted	Conditionally Permitted	Conditionally Permitted	Interim Use Permit
Industry	Permitted	Conditionally Permitted	Conditionally Permitted	Interim Use Permit
Shoreland	Conditionally Permitted	Conditionally Permitted on Natural Environment Lakes only	Conditionally Permitted on Natural Environment Lakes only	IUP for Natural Environment Lakes CUP for others

### 23.2200 WECS SETBACKS – WIND TURBINES AND METEOROLOGICAL TOWERS

All towers shall adhere to the setbacks established in the following table.

	Wind Turbine – Non-Commercial WECS & Micro WECS	Wind Turbine - Commercial WECS	Meteorological Towers
Property lines	1.1 times the total height	1.1 times the total height	1.1 times the total height
[Neighboring] Dwellings[*]	1.1 times the total height	1000 feet	1.1 times the total height
Road Rights-of-Way	1.1 times the total height	1.1 times the total height	1.1 times the total height
Other Rights-of-Way (Railroads, power lines, etc)	1.1 times the total height	To be considered by the planning commission	1.1 times the total height.
Other Existing WECS	NA	To be considered based on: - Relative size, alignment, extent of the existing and proposed WECS -Impact on existing WECS.	NA

\* The setback for dwellings shall be reciprocal in that no dwelling shall be constructed within 1000 feet of a commercial wind turbine.

23.2300 WECS REQUIREMENTS AND STANDARDS

23.2310 Safety Design Standards.

23.2320 Engineering Certification. For all WECS, excluding micro WECS, the manufacture'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.

23.2330 Clearance. Rotor blades or airfoils must maintain at least 30 feet of clearance between their lowest point and the ground.

23.2340 Warnings.

a. For all Commercial 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 8 feet above the ground. Visible fencing shall be installed around anchor points of guy wires. Consideration shall be given to painted aviation warnings on metrological towers of less than 200 feet.

23.2350 Standards.

23.2360 Total height. Non-Commercial WECS shall have a total height of less than 200 feet.

23.2400 Tower configuration.

23.2410 All wind turbines, which are part of a commercial WECS, shall be installed with a tubular, monopole type tower.

23.2420 Meteorological towers may be guyed.

23.2430 Color and Finish. All wind turbines and towers that are part of a commercial WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matt or non-reflective. Metrological Towers shall follow the standards listed in section 23.9300.

23.2440 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. Metrological Towers shall follow the standards listed in section 23.9300.

23.2450 Other Signage. All signage on site shall comply with Section 12 of the Polk County Zoning Ordinance.

23.2460 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.

23.2470 Discontinuation and Decommissioning. A WECS shall be considered a discontinued use after 1 year without energy production, unless a plan is developed and submitted to the Polk County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed four feet below ground level within 90 days of the discontinuation of use.

23.2480 Each Commercial WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities.

23.2500 Other Applicable Standards

23.2510 Noise. All WECS shall comply with Minnesota Rules 7030, as amended, governing noise.

23.2520 Electrical codes and standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

23.2530 Federal Aviation Administration. All WECS shall comply with FAA standards and permits.



23.2600 Interference. The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any WECS. The applicant shall notify all communication tower operators within two 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 Minnesota Department of Transportation microwave transmissions.

23.2700 Avoidance and Mitigation of Damages to Public Infrastructure.

23.2710 Roads. Applicants shall:

- a. Identify all county, city or township roads to be used for the purpose of transporting WECS, substation parts, materials, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

#### 23.3000 DEVELOPMENT OF TOWERS

23.3100 All towers not regulated as a WECS, up to a height of 400 feet, shall be permitted by a Administrative Special Use Permit through the procedures specified in section 13.6000. All towers in excess of 400 feet shall be permitted upon the issuance of a Conditional Use Permit.

23.3200 A tower shall be a permitted use of land in all zoning districts except the Industrial District. No person shall build, erect, or construct a tower upon any plot of land within the Industrial District.

23.3210 Towers are prohibited on any property whose principal use includes the storage, distribution, or sale of volatile, flammable, explosive, or hazardous materials.

#### 23.4000 TOWER PROCEDURES

23.4500 Application requirements for towers. A permit application to develop a tower shall include:

- a. The names of project applicant and the property owner.
- b. The legal description and address of the project.
- c. Site layout, including the location of property lines and all related accessory structures. The site layout shall include distances and be drawn to scale.

- d. Documentation of land ownership or legal control of the property.
- e. All Applicable licenses, including FAA and FCC, needed to construct the tower at the proposed site.
- f. Location of all known Communications Towers within 2 miles of the proposed WECS.
- g. The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one mile radius of the proposed new tower site.
- h. Written documentation that it will not interfere with any other tower (including airports) or antenna support structures within a one mile radius of the proposed tower site.
- i. A report from a licensed professional engineer that describes the tower's capacity including the number and type of antennas that it can accommodate.
- j. A letter of intent from the tower owner committing the tower owner and successors to allow the shared use of the tower if additional users agree in writing to meet reasonable terms and conditions for shared use.
- k. Proof that the owner's name, telephone number and site ID number shall be posted on the gate of the perimeter fence. No other advertising or identification of any kind is permitted on the tower facility except applicable warning and equipment information as required by the Manufacturer or by Federal, State or Local authorities.
- l. A sworn statement signed by applicant on corporate letterhead that the communications equipment plan for the proposed tower cannot be accommodated on an existing tower or improved tower or building within a two mile radius of the proposed tower due to one or more of the following reasons:
  - (1) The planned equipment would exceed the structural capacity of the existing 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.
  - (2) 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.

- (3) Existing or approved towers and commercial/industrial buildings within a two mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional radio frequency (RF) engineer.
- (4) Reasons that make it unfeasible to locate the planned equipment upon an existing or approved tower or building.

### 23.5000 TOWER SETBACKS

- 23.5500 All towers up to 400 feet in height shall be set back on all sides a distance equal to the height of the tower plus ten feet from any lot line or public road. All towers in excess of 400 feet in height shall be set back in accordance to the condition place upon the tower with the issuance of a Conditional Use Permit.
- 23.5510 Setback requirements for towers shall be measure from the base of the tower to the property line or edge of road of the parcel on which it is located.

### 23.6000 TOWER REQUIREMENTS AND STANDARDS

- 23.6100 Tower Design Requirements.
- 23.6110 All towers must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with the FCC, and any other standards that apply to constructing a tower.
- 23.6120 Any proposed tower shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and comparable antennas for additional users. For towers greater than 200 feet in height, the structure shall be designed to accommodate at least four additional providers. For towers less than or equal to 200 feet in height, the structure shall be designed to accommodate at least two additional providers.
- 23.6130 All towers shall maintain compliance with the FCC at all times, including current radio frequency emissions standards and maintenance of all equipment at the tower site.
- 23.6200 Security. All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower shall be designed in a manner to preclude unauthorized climbing and shall be enclosed by a six-foot high chain link fence with anti-climb barbed wire protection and a locked gate.

- 23.6210 All towers must be reasonably posted and secured by a fence or some form of protection to keep those not permitted on the property from trespassing.
- 23.6220 Any fences constructed around or upon parcels containing towers, or telecommunication facilities shall be constructed in accordance with applicable fencing requirement applicable in the zoning district where the tower or facility is located, unless more stringent fencing requirements are required by FCC regulations.
- 23.6300 Marking/Painting and Lighting.
- 23.6310 Towers must be painted in seven, equal, alternating bands of aviation orange and white. Beginning with orange at the top of the tower, and ending with orange at the base.
- 23.6320 Towers must have a flashing red light at the top of the tower with a minimum of 3.75 km visibility when flashing.
- 23.6330 Guide-Wired Towers must have a total of eight marker balls attached as follows: 4 marker balls attached to guide wires at the top of the tower at a distance no further down than 15 feet from the top wire connection to the tower; 4 marker balls at the bottom of the guide wires at the height of 5-10 feet above the tallest crop to be grown in the immediate vicinity of the tower.
- 23.6340 Guide-Wired Towers must have a 7 foot safety sleeve at each anchor point.
- 23.6400 Access. All parcels upon which towers are located must provide access during normal business hours to all personnel allowed on site.
- 23.6500 Maintenance. All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not endanger the life or property of any person.
- 23.6600 Insurance. All towers and their antennas shall be adequately insured for injury and property damage caused by collapse of the tower. A “certificate of insurance” shall be filed with the Planning and Zoning Office prior to commencing operation of the facility.
- 23.6700 EAW. An Environmental Assessment Worksheet (EAW) is required for the construction of a communications tower equal to or in excess of 500 feet in height, or 300 feet in height within 1,000 feet of a protected water or protected wetland or within two miles of the Red River.

23.6800 Abandoned or unused towers. Abandoned or unused towers and associated facilities shall be removed within twelve months of the cessation of operations at the site unless a time extension is approved by the Polk County Planning and Zoning Administrator. In the event that a tower is not removed within twelve months of the cessation of the operations at the site the County may remove the tower and associated facility with costs being assessed against the property.

23.7000 DEVELOPMENT OF SOLAR ENERGY SYSTEMS

23.7100 SOLAR ENERGY SYSTEM PROCEDURES

23.7110 Land Use Permits and Conditional Use Permits shall be applied for and reviewed under the procedures established in the Polk County Zoning Ordinance, except where noted below.

23.7200 SOLAR ENERGY SYSTEM REGULATIONS

23.7210 Solar Energy Systems will be allowed, permitted (accessory use), conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below:

District	Accessory Roof/Building Mounted Systems	Accessory Ground Mounted Systems <150 Square Feet	Accessory Ground Mounted Systems >150 Square Feet	Solar Farm
General Agricultural	Allowed*	Allowed*	Permitted	Conditional Use Permit
Village	Allowed*	Allowed*	Permitted	Not Allowed
Commercial	Allowed*	Allowed*	Permitted	Conditional Use Permit
Industrial	Allowed*	Allowed*	Permitted	Conditional Use Permit
Shoreland	Allowed*	Permitted	Permitted	Not Allowed
Floodplain	Allowed*	Allowed*	Permitted	Conditional Use Permit

\*Must meet the Standards and Requirements found in Section 23.7700 of this ordinance.

23.7300 SOLAR FARM PROCEDURES

23.7310 The application for all Solar farms shall include the following information:

- A. A site plan of existing conditions showing the following:
  - 1. 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.
2. Existing public and private roads, including width of ROW and any associated easements.
  3. Location and size of any used or abandoned wells or sewage treatment systems.
  4. Existing buildings and any impervious surfaces.
  5. Topography at two (2) foot intervals and source of contour interval, unless determined otherwise by the Administrator. A contour map of the surrounding properties may also be required.
  6. Existing vegetation (list type and percentage of coverage; i.e. grassland, plowed field, wooded area, etc.)
  7. Waterways, watercourses, lakes and public water wetlands.
  8. Delineated wetland boundaries may be required.
  9. The one hundred (100)-year flood elevation and Regulatory Flood Protection Elevation (RFPE), if applicable.
  10. Floodway, flood fringe and/or general flood plain district boundary, if applicable.
  11. The shoreland district boundary, if any portion of the project is located in a shoreland overlay district.
  12. In the shoreland overlay district, the toe and top of any bluffs within the project boundaries.
  13. Mapped soils according to the Polk County Soil Survey.
  14. Surface water drainage patterns.

B. A site plan of proposed conditions showing the following:

1. Location and spacing of solar panels.
2. Location of access roads.
3. Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load.
4. New electrical equipment other than at the existing building or substation that is the connection point for the solar farm.
5. Proposed erosion and sediment control measures as required under Section 12.4090 of this Ordinance.
6. Proposed stormwater management measures as required under Section 12.4110 of this Ordinance.
7. Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any).

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

D. The number of panels to be installed.

- E. A description of the method of connecting the array to a building or substation.
- F. A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.
- G. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet the provisions of Polk County Solid Waste Ordinance or successor ordinance. The Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.
- H. Aviation Analysis. If the project is within two miles of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or successor policy. The applicant must also complete the Air Space Case Analysis (Form 7460) and provide results.
- I. Visual Impact Analysis. An analysis of the potential visual impacts from the project including solar panels, roads and fencing along with measures to avoid, minimize or mitigate the visual effects shall be required. A plan may be required showing vegetative screening or buffering of the system from those items to mitigate visual impacts.

23.7400 SOLAR FARM SETBACKS

23.7410 Setback requirements for a solar farm, which has been approved as a Conditional Use Permit shall be as follows:

- A. Property Line Setback: 100 Feet
- B. Road Right of Way Setback: 100 Feet
- C. Setback from nearest Residential Dwelling not associated with Solar Farm: 300 Feet

23.7500 SOLAR FARM REQUIREMENTS AND STANDARDS

23.7510 Solar farms shall be subject to the administrative requirements of

Section 7 and the performance standards of Section 12.4000 of this ordinance, including screening.

23.7520 Solar Farms shall meet all stormwater management requirements of Section 12.4110 of this ordinance.

23.7530 Erosion and sediment control shall meet the requirements of Section 12.4090 of this ordinance.

23.7540 Foundations. The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climatic conditions.

23.7550 Other Standards and codes. All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; and National Electric Code, as amended.

23.7560 Power and communication lines. Power and communication lines running between banks of solar panels may be placed above ground, provided the lines are placed no higher than the top of the solar modules. Power and communication lines to electric substations or interconnections with building 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 natural landscape interfere with the ability to bury lines.
- B. When required by the utility company.
- C. Unless otherwise determined by the Board.

23.7600 SOLAR ENERGY SYSTEMS (ACCESSORY) PROCEDURES

23.7610 Accessory solar energy systems are a permitted accessory use in all zoning districts, subject to the administrative requirements of Section 4 and the standards of this section of the ordinance.

23.7700 SOLAR ENERGY SYSTEMS (ACCESSORY) SETBACKS AND STANDARDS

23.7710 Accessory Building Limit: Ground mounted systems shall count as an accessory building for the purpose of meeting limits on the number of accessory structures allowed per lot and the coverage



limits, as set in the zoning district for which the system is being installed.

- 23.7720 Height: Active solar systems are subject to the following height requirements:
- A. Building or roof-mounted solar systems shall not exceed the maximum height allowed in any zoning district.
  - B. Ground or pole-mounted solar systems shall not exceed twenty-five (25) feet in height when oriented at maximum tilt.
- 23.7730 Location within a Lot: Solar systems must meet the accessory structure setback for the zoning district in which the system is being installed.
- 23.7740 Roof-mounted Solar Systems: In addition to the building setback, the collector surface and mounting devices for roof-mounted solar 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 solar systems that have a greater pitch than the roof surface shall be setback 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.
- 23.7750 Ground-mounted Solar Systems: Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum tilt.
- 23.7760 Stormwater management shall meet the requirements of Section 12.4110 of this Ordinance.
- 23.7770 Erosion and sediment control shall meet the requirements of Section 12.4090 of this Ordinance.
- 23.7780 Approved Solar Components. Electric solar system components must have documentation that the products have been independently tested by a Nationally Recognized Testing Laboratory.
- 23.7790 Compliance with State Electric Code. All photovoltaic devices shall comply with the Minnesota State Electrical Code.
- 23.7800 Utility Notification. No grid-intertie photovoltaic system shall be installed until evidence has been given to the Administrator 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.

## SECTION 24 ADULT USE

### 24.0000 PURPOSE

This ordinance is established to regulate the growth and operation of Adult Use Businesses or Establishments within Polk County.

### 24.1000 DEFINITIONS.

Any words or phrases used in this section shall refer the meaning assigned to them in Section 3 unless further modified in this section. The following words or phrases of and within this section shall be further modified and interpreted as follows:

24.1005 Administrator - The Polk County Planning & Zoning Administrator.

24.1010 Adult Uses - Adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. This definition does not apply to accredited or licensed academic institutions such as Colleges, Universities, Vocational/Trade Schools or Public/Private Schools grades K – 12. Activities classified as obscene are defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

24.1015 Adult Uses Accessory - The offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

24.1020 Adult Uses Principal - The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following: Adult Body Painting Studio, Adult Bookstore, Adult Cabaret, Adult Car Wash, Adult Companionship Establishments, Adult Entertainment Facilities, Adult Establishments, Adult Hotel or Motel, Adult Massage Parlor, Adult Heath/Sport Club,

Adult Mini-Motion Picture Theater, Adult Modeling Studio, Adult Motion Picture Arcade, Adult Motion Picture Theater, Adult Novelty Business, and Adult Sauna/Steam Room/Bathhouse.

- 24.1025 Adult Body Painting Studio - An establishment or business that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "Specified anatomical areas".
- 24.1030 Adult Bookstore - An establishment, building or business engaging in the barter, rental, or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor because of age, if more than twenty ( 20) per cent of the useable floor area of the establishment, building, or business, or if at least 500 square feet, whichever is smaller, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to "specified sexual activities" or "specified anatomical areas".
- 24.1035 Adult Cabaret - An establishment, building or business that provides dancing or other live entertainment if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".
- 24.1040 Adult Car Wash - A wash facility for any type of motor vehicle that allows employees, agent, independent contractors or persons to appear in a state of partial or total nudity in terms of "specified anatomical areas".
- 24.1045 Adult Companionship Establishments - An establishment of business, if such establishment excludes minors because of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- 24.1050 Adult Entertainment Facility - A building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentations of entertainment distinguished by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas".
- 24.1055 Adult Establishment - An establishment, building or business engaging in

any of the following activities or which uses any of the following business procedures or practices, either:

- a. Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage thereat either by law or by the operator of such business; or
- b. Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas".
- c. Specifically included in the term, but without limitation, are adult book stores, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels and adult body painting studios.

24.1060 Adult Hotel or Motel - A hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

24.1065 Adult Massage Parlor, Health Sport Club - A massage parlor or health/sport club that restricts minors because of age or law, which provides the services of massage if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

24.1070 Adult Motion Picture Theater - A business, building or establishment in an enclosed building with a capacity for less than fifty (50) persons used for the presenting of visual media material if such business as a prevailing practice excludes minors by virtue of age, or law, or if said material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patron.

24.1075 Adult Modeling Studio - An establishment or business whose major business is the provision to customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers who engage in "specified sexual activities" or "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

24.1080 Adult Motion Picture Arcade - Any building or place to which the public

is allowed or invited in which coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices that show images to give or fewer persons per machine at once, and characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

- 24.1085 Adult Motion Picture Theater - A business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if said business as prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.
- 24.1090 Adult Novelty Business - A business that has as a principal activity the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to "specified sexual activities" or "specified anatomical areas".
- 24.1095 Adult Sauna/Steam Room/Bathhouse - A business that excludes minors because of age, or which provided a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- 24.1100 Licensed Family Day Care, Licensed Group Family Day Care, Licensed Child Care Center - A facility holding a license from Polk County or Minnesota pursuant to Minnesota Statutes, chapter 245A and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.
- 24.1105 Minor - Any person under the age of eighteen (18) years.
- 24.1110 Nudity - The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage male genitals in a discernibly turgid state.
- 24.1115 Open Space - Any parcel of land or portion thereof designated as an integral part of a residential development, plat, or planned unit development as required by the Ordinance for the Management of Shoreland Areas, Polk County, Minnesota, or the Land Use Ordinance for Non-Shoreland Areas, Polk County, Minnesota.
- 24.1120 Public Library - Any library that provides free access to all residents of a

city or county without discrimination and is organized under Minnesota Statutes, Chapter 134.

- 24.1125 Public Park - A park, reservation, playground, beach, or recreation or community center in the County owned, leased, or used wholly or in part by a city, county, state, school district, or federal government for recreational purposes.
- 24.1130 Place of Worship - A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.
- 24.1135 School - A building or space that is principally used as a place where twenty-five (25) or more persons receive a full course of educational instruction. Any post-secondary or post high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of this Ordinance.
- 24.1140 Sexually Oriented Business - An adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities classified as obscene AS defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.
- 24.1145 Specified Anatomical Areas - Anatomical areas consist of:
- a. Less than completely and opaquely covering human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below a point immediately above the top of the areola or any combination of the foregoing; and
  - b. Human genitals in a discernibly turgid state, even if completely and opaquely covered.
- 24.1150 Specified Sexual Activities – Activities consisting of the following:
- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse,

oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zooerasty; or

- b. Human genitals in the state of sexual stimulation, arousal, or tumescence; or
- c. Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or
- d. Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breasts; or
- e. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or
- f. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
- g. Human excretion, urination, menstruation, vaginal or anal irrigation; or
- h. Any combination of the above.

#### 24.2000 PERMITTING OR LICENSES

24.2010 License Required: No person, firm, corporation or other entity shall own or operate an adult use or sexually oriented business in Polk County without having first secured a license as provided herein. The license shall be one of two types:

- a. Adult use Principal; or
- b. Adult use Accessory.

24.2100 Applications: The County shall provide an application for an Adult Use Principal or sexually oriented business license. This application shall include the following:

- a. The legal and full name, residence, phone number and birth date of the applicant, if any individual; and, if any corporation, partnership, LLC, or similar entity, the full and legal names, residences, phone numbers and birth

dates of those owners holding more than five (5) percent of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC or similar entity.

- b. The legal and full name, address, phone number and birth date of the operator and manager of such operation, if different from the owner(s);
- c. The address and legal description of the building, establishment or premises where the adult use or sexually oriented business is to be located.
- d. A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant or, for a corporation, the owners of more than five (5) percent of the issued and outstanding stock if the corporation, or ownership interest in a partnership, LLC or similar entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other counties or cities.
- e. The activities and type of business to be conducted;
- f. The hours of operation;
- g. The provisions made to restrict access by minors;
- h. A building plan of the premises detailing internal operations and activities;
- i. A description or building plan that details all proposed interior and exterior changes to an existing building or structure; and
- j. A scaled drawing defining property boundaries and distances to structures and sewage treatment systems.
- k. A provision on the application in bold print stating that any withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided in the application or provided during the investigation shall be reported to the County Board of Commissioners by the applicant or licensee. If said changes take place during the investigation, the data shall be provided to the Zoning Administrator in writing, and the Administrator shall report the changes to the County Board of Commissioners. Failure to report said changes by the applicant(s) or the licensee may result in the denial or revocation of a license.
- l. A signed release(s) from each person or entity subject to the annual license, license renewal or application investigation. Said releases shall be sufficient to thoroughly investigate all the aspects of the application. Failure to provide



for said releases shall be subject to disqualification from employment or affiliation with the proposed business, and/or license denial.

24.2150 Any fact in the application for licensure that has been intentionally misrepresented or found during the investigation to be false, shall be cause for denial of the license, or renewal thereof. Any person(s) listed on the license application that have found to be in violation of 24.2400 subdivisions a – c, shall be disqualified from employment or affiliation with the proposed business.

24.2160 If during the investigation of the application of licensure, any person subject to the investigation is found to have intentionally misrepresented or provided false information, that portion of the investigation shall be terminated and the person shall be disqualified from employment or affiliation with the proposed business. Disqualification of one person does not automatically stop the investigation of the application for licensure unless it is determined that said disqualification violates the intent of 22.2150.

24.2200 License Fees:

24.2210 Each application for a license shall be accompanied by a fee, as set by the resolution of the County Board of Commissioners, for payment in full of the required application and investigative fees for the license as established. All fees shall be paid at time of application.

24.2220 All licenses shall expire on the last day of December in each year. The County shall issue each license for one (1) year, except if part of the license year has elapsed when the application is made, the County may issue a license for the remainder of the year for a prorated fee. In computing such fee, the County shall count any unexpired fraction of a month as one (1) month.

24.2230 The annual license fee and investigative fee for the Adult Use or Sexually Oriented business license shall be established by resolution of the County Board of Commissioners.

24.2240 No part of any annual license fee or the investigative fee paid as required by this ordinance shall be refunded.

24.2250 Any change in personnel as defined and regulated in Section 24.2100, (other than the license holder), shall require an additional 'investigation'. This new personnel shall not assume any duties related to this business until the completion of that new investigation has been concluded and approved by the County Board of Commissioners.

24.2300 Granting of License:

24.2310 The County shall investigate all facts set out in the application, including comments from the affected Township Board. After the County finishes the investigation of the application, the County shall grant approval of the application if all requirements of this section, as well as all other applicable requirements of the zoning ordinance are met.

24.2320 The County shall only issue the license to the applicant. The license shall not be transferred to another holder. The County shall only issue each license for the premises or location described in the application. No license may be transferred to another location or place without the approval of the County Board of Commissioners.

24.2400 Persons Ineligible For License: The County shall not grant a license to nor may one be held by any person who:

- a. Is under twenty-one (21) years of age;
- b. Has been convicted of a felony;
- c. Is not a citizen of the United States;
- d. Is not the proprietor of the establishment for which the license is issued;
- e. Has not paid the license and investigative fees required by this Ordinance;
- f. Has had an adult use or similar permit or license revoked under an ordinance or statute similar to this ordinance.

24.2500 Places Ineligible for License:

24.2510 No license shall be granted for adult uses or sexually oriented business on any premises where a licensee has been convicted of a violation of this ordinance, or a similar ordinance of another governmental entity, or where any license hereunder has been revoked for cause until one (1) year has elapsed after such conviction or revocation.

24.2520 Except uses lawfully existing at the time of this Ordinance, no license shall be granted for any adult use or sexually oriented business that

does not meet all County Ordinance requirements, all building and fire codes requirements, and all provisions of State and Federal Law.

24.2600 Non-Conforming Uses: Any adult use or sexually oriented business existing on the effective date of the adoption of this Ordinance may be continued subject to the following provisions:

24.2610 No such adult use or sexually oriented business shall be expanded or enlarged except in conformity with the provisions of this Ordinance;

24.2620 A non-conforming adult use or sexually oriented business shall be required to apply for and receive an adult use license from the County. The County does not require a public hearing before issuing a license for the non-conforming adult use or sexually oriented business.

24.2700 Conditions of License Generally

24.2705 All licenses – Adult Principal Uses and Adult Accessory Uses.

24.2710 Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Ordinance and of any applicable county ordinance, state law, and/or federal law. No adult use or sexually oriented business shall engage in any activity or conduct, or permit any other person to engage in any activity or conduct, in or about the adult use establishment that is prohibited by any ordinance of the County or the laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene materials generally, or the exhibition, sale, or distribution of specified materials to minors.

24.2715 All licensed premises shall have the license posted in a conspicuous place.

24.2720 No minor shall be allowed in or on the premises of an adult use or sexually oriented business. No adult use or sexually oriented goods, materials, or services shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.

24.2725 Any designated inspection officer or law enforcement officer of the County shall have the right to enter, inspect, and search the entire premises of a licensee during business hours to ensure compliance with the provisions of any county ordinances or conditions placed upon the permit, as well as state and federal laws and regulations.

Failure to comply with any request to enter, inspect or search the entire premises shall be grounds for permit revocation.

24.2730 Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions consistent with this Ordinance and County Ordinances generally.

24.2735 Special requirements for Live Adult Entertainment:

24.2737 All performers, dancers, and persons providing live entertainment, distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, in the licensed facility or in areas adjoining the licensed facility, where the entertainment can be seen by patrons, customers, or spectators, shall

- a. Provide said entertainment on a platform intended for that purpose which is raised at least two (2) feet from the level floor;
- b. Provide said entertainment at a distance no closer than six (6) feet from and patron, customer, or spectator;
- c. Not fondle or caress any patron, customer, or spectator; and
- d. Not solicit any pay or gratuity from any patron.

24.2739 No patron, customer, or spectator of a licensed facility providing live entertainment, distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, shall fondle or caress any performer, dancer, or other person providing said entertainment.

24.2800 Conditions of License – Adult Use Principal: The County permits adult use principal and sexually oriented businesses only in the General Agriculture zoning district, subject to the following conditions:

- a. No adult use principal or sexually oriented business shall be located closer than 1320 feet from any other adult use principal or sexually oriented business in any County. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual

business premises of any other adult use principal or sexually oriented business.

- b. No adult use principal or sexually oriented business shall be located closer than 1320 feet from any residential lot line, place of worship, school, public park, open space, licensed family day care home, public library, or licensed child care or day care center in any city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest property line of the premises or building used as a dwelling or residence, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.
- c. No adult principal use or sexually oriented business shall be located closer than 1320 feet from any residential lot line, any residential zoning district, residential plat or any residential planned unit development (PUD) in any city or county. Measurements shall be in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest residential lot line, boundary of the residential zoning district or planned unit development (PUD).
- d. The County prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure:
  - Adult body painting studio;
  - Adult book store;
  - Adult cabaret;
  - Adult car wash;
  - Adult companionship establishment;
  - Adult entertainment facility;
  - Adult hotel or motel;
  - Adult modeling studio;
  - Adult sauna/steam room/bath house;
  - Adult motion picture theater;
  - Adult mini-motion picture theater;
  - Adult massage parlor;
  - Adult health/sports club;
  - Adult novelty business;

Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" that the public can see.

- e. An adult use principal and sexually oriented business shall not sell or dispense 3.2 malt liquors or intoxicating liquors, nor shall said business be located within 1320 feet of a building that contains a business that sells or dispenses 3.2 malt liquors or intoxicating liquors. An adult use principal and sexually oriented business shall not allow the consumption of 3.2 malt liquors or intoxicating liquors anywhere on a parcel containing the use or business.
- f. No adult use principal or sexually oriented businesses shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.
- g. All adult use principal and sexually oriented businesses shall prominently display a sign at the entrance and located within two (2) feet of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter".
- h. Adult use principal and sexually oriented businesses shall not be open between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 p.m. (Noon) on Sunday.

24.2900 Conditions of License – Adult Use Accessory : The County may issue Adult Use Accessory licenses to businesses or establishments located in General Agriculture zoning district subject to the following requirements:

- a. No adult use accessory or sexually oriented business shall be located closer than 1320 ft from any other adult use principal or sexually oriented business in any County. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.
- b. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any residential lot line, place of worship, school, public park, open space, licensed family day care home, public library, or licensed child care or day care center in any city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest property line of the premises or building used as a

dwelling or residence, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.

c. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any residential lot line, any residential zoning district or any residential planned unit development (PUD) in any city or county. Measurements shall be in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest residential lot line, boundary of the residential zoning district, residential plat or planned unit development (PUD).

d. The County prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure:

- Adult body painting studio;
- Adult book store;
- Adult cabaret;
- Adult car wash;
- Adult companionship establishment;
- Adult entertainment facility;
- Adult hotel or motel;
- Adult modeling studio;
- Adult sauna/steam room/bath house;
- Adult motion picture theater;
- Adult mini-motion picture theater;
- Adult massage parlor;
- Adult health/sports club;
- Adult novelty business;

Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" that the public can see.

e. The adult use accessory shall comprise no more than twenty percent (20%) of the floor area, or up to five-hundred (500) square feet, whichever is smaller, of the establishment, space, structure, or building in which it is located.

f. The adult use accessory shall be prohibited from external or internal advertising and signing of adult use materials and products.

24.2950 Revocation, Suspension, or Non-Renewal of License:

24.2955 The Zoning Administrator may revoke, suspend, or not renew a license upon recommendation of assigned staff, Minnesota

Department of Health Official and/or State Fire Marshall, or the County Sheriff that shows that the licensee, its owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct:

- a. Fraud, deception or misrepresentation about securing the license;
- b. Habitual drunkenness or intemperance in use of controlled substances under Minnesota Statutes Chapter 152;
- c. Engaging in conduct involving moral turpitude or permitting or allowing other within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude;
- d. Failure to follow any requirements made as a condition of permit issuance or of the Ordinances of Polk County about sanitary and safety conditions, zoning requirements, or ordinances, the violation of which involves moral turpitude, or failure to follow the requirements of this Ordinance;
- e. Conviction of an offense involving moral turpitude;
- f. Conviction of a felony.

24.2960 The license holder may appeal such suspension, revocation, or non-renewal to the Board of Adjustment. Such appeal shall be made in writing and shall be served upon the Zoning Administrator by personal delivery and/or certified mail, return receipt requested. The Board of Adjustment shall consider the appeal at a regularly scheduled public hearing within (45) forty-five days from the service of the notice of appeal upon the Zoning Administrator.

24.2965 At the conclusion of the hearing, the County Board of Commissioners may order:

- a. The revocation, suspension or non-renewal be affirmed;
- b. That the revocation, suspension, or non-renewal be lifted and that the license be returned to the certificate holder.

24.2970 The decision of the County Board of Commissioners is final.

24.2975 An appeal must be accompanied by cashier's check in the amount of \$500. If the decision of the Zoning Administrator is upheld, the license holder is not entitled to any refund of the appeal fees. If the



decision of the Zoning Administrator is overturned, the full amount will be refunded to the license holder.

#### 24.3000 SIGN RESTRICTIONS

- 24.3100 The following sign regulations shall apply to all adult use sexually oriented businesses in Polk County. These regulations are to protect children from exposure to sexually oriented or shocking signs and materials and the preserve the value of property near adult use and sexually oriented businesses. These regulations are aside from any other provisions of the Counties regulations.
- 24.3110 All signs shall be flat wall or freestanding signs. No sign shall be located on the roof, or contain any flashing lights, moving elements or electronically or mechanical changing messages.
- 24.3120 The County's sign regulations outlined in the Polk County Zoning Ordinance for the appropriate Zoning District where the business is located shall regulate the number, size, and location of signs allowed for an adult use or sexually oriented business.
- 24.3130 No merchandise, photos, images or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right of way adjoining the building or structure in which the adult use or sexually oriented business is located.
- 24.3140 No signs shall be placed in any window.
- 24.3150 A two (2) foot square sign may be placed on the door to state hours of operation and admittance to adults only.

#### 24.4000 PENALTY

- 24.4100 Any person violating any provisions of this Ordinance is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by State law.

## SECTION 25 BUFFER REGULATIONS

25.0000 PURPOSE AND INTENT

25.1000 It is the purpose of Polk County to:

- a) Provide for riparian vegetated buffers and water quality practices to achieve the following purposes:
  1. Protect state water resources from erosion and runoff pollution;
  2. Stabilize soils, shores and banks; and
  3. Protect or provide riparian corridors.
- b) Coordinate the implementation and enforcement of the water resources riparian protection requirements of Minn. Stat. §103F.48 with the shoreland management rules and ordinances adopted under the authority of Minn. Stat. §103F.201 to 103F.227 and the management of public drainage systems established under Minn. Stat. chapter 103E where applicable; and
- c) Provide efficient and effective direction to landowners and protection of surface water quality and related land resources.

25.1100 Data sharing/management – 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. The County will manage all such data in accordance with the Minnesota Data Practices Act and any other applicable laws.

25.1200 Jurisdiction – The provisions of this ordinance apply to the following waters and public drainage systems as shown on the buffer protection map:

- a) All waters, excluding the public drainage systems for which the County is not the drainage authority under Minn. Stat. Chapter 103E, and the Watershed is assuming jurisdiction; and
- b) All public drainage systems for which the County is not the drainage authority under Minn. Stat. Chapter 103E where the Watershed is not assuming jurisdiction.

## 25.2000 REQUIREMENTS

- 25.2100 Buffer Width - Except as provided in section 25.2400 and 25.2500, a landowner owning property adjacent to a water body identified on the buffer protection map must establish and maintain a buffer area as follows:
- a) For waters shown on the buffer protection map requiring a fifty (50) foot width buffer, the buffer width will be fifty (50) foot average and thirty (30) foot minimum width as provided in Minn. Stat. §103F.48, subd. 3 as measured according to section 25.2200(a); and
  - b) For waters shown on the buffer protection map requiring a sixteen and a half (16.5) foot minimum width buffer, the buffer width will be sixteen and a half (16.5) feet as provided in Minn. Stat. §103F.48, subd. 3 and as measured according to section 25.2200(b).
- 25.2200 Measurement:
- a) The width of any required buffer on land adjacent to a water requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer shall be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level as provided in Minn. Stat. §103F.48, subd. 3(c).
  - b) The width of any required buffer on land adjacent to a 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. 6 as provided in Minn. Stat. §103F.48, subd. 3(c).
- 25.2300 Use of buffer area. Except as provided in sections 25.2400 and 25.2500 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.
- 25.2400 Exemptions. The requirement of section 25.2100 does not apply to land that is exempted from the water resources riparian protection requirements under Minn. Stat. §103F.48, subd. 5.
- 25.2500 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 section 25.2100 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 25.2100 to 25.2300. The adequacy of any alternative practice allowed under this section shall be based on:

- a) The Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
- b) Common alternative practices adopted and published by BWSR;
- c) Practices based on local conditions approved by the SWCD that are consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or
- d) Other practices adopted by BWSR.

25.2600 Grandfathering. Where the provisions of any statute, other ordinance or regulation imposes greater restrictions than this ordinance, the provisions of such statute, other ordinance or regulation shall be controlling. Parcels grandfathered in for other preexisting land uses shall not be grandfathered in with respect to these provisions and with respect to compliance with the Buffer Law, Minn. Stat. § 103F.48.

## 25.3000 COMPLIANCE DETERMINATIONS

25.3100 Compliance determinations. Compliance with the buffer requirements set forth in section 25.2000 will be determined by the SWCD on a parcel by parcel basis. The compliance status of each bank, or edge of a waterbody on an individual parcel will be determined independently.

25.3200 Investigation and notification of noncompliance. When the County identifies a potential noncompliance with the buffer requirements or receives a third party complaint from a private individual or entity, or from another public agency, it will consult with the East Polk or West Polk SWCD to determine the appropriate course of action to document 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 the evidence gathered in this process, the SWCD may issue a Notification of Noncompliance to the County. If the SWCD does not issue such a Notification, the County will not pursue a compliance or enforcement action under Minnesota Statutes §103F.48 and section 25.4000.

25.3300 At any time during process set forth in 25.3100 and 25.3200, the landowner may provide documentation of compliance to the SWCD.

- 25.3400 Compliance Determination. The SWCD will evaluate the available documentation, and/or evaluate and/or inspect the buffer and/or alternative practices to determine if the parcel is in compliance. Upon completion of the evaluation and/or inspection the SWCD shall issue a written compliance determination to the landowner, the County and BWSR. The SWCD may also issue a Validation of Compliance if applicable and requested by the landowner.
- 25.3500 Corrective Action Notice. On receipt of an SWCD Notification of Noncompliance, the County will issue the landowner a Corrective Action Notice that will:
- a) Include a list of corrective actions needed to come into compliance with the requirements of Minn. Stat. §103F.48;
  - b) Provide a timeline for complying with the corrective action notice;
  - c) Provide a compliance standard against which the County will judge the corrective action; and
  - d) Include a statement that failure to respond to this Notice may result in the assessment of criminal, civil or administrative penalties.
- 25.3510 The County may send the landowner a combined Corrective Action Notice and APO as provided in section 25.4000 so long as the combined Notice/APO includes all the required elements of both.
- 25.3520 The County 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 25.4000. The County shall also send a copy of the Notice to the SWCD and BWSR.
- 25.3530 Counties may modify the corrective actions and timeline for compliance, in accordance with section 25.3200, to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.
- 25.3540 At any time after receipt of a corrective action notice, the landowner may provide documentation of compliance to the

County. In addition, the landowner may supply information to the County or the SWCD in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, the County may make a written modification to the Corrective Action Notice or timeline for compliance. The County should also make a written determination documenting whether the noncompliance has been fully corrected. Any such modification of a compliance determination will be served on the landowner in the manner provided for in section 25.3500. The County shall provide the SWCD and BWSR a written copy of any modification made pursuant to this provision.

25.3550 The SWCD may, after an evaluation of the evidence documenting compliance submitted by the landowner, issue a written Validation of Compliance if requested by the landowner. Upon receipt by the County of a written compliance determination issued by the SWCD, the Corrective Action Notice will be deemed withdrawn for the purpose of section 25.4000, and the subject property will not be subject to enforcement under that section.

#### 25.4000 ENFORCEMENT

25.4100 Failure to comply with a corrective action notice issued under section 25.3000.

The County may, at its own discretion, elect to pursue the failure to comply with a corrective action notice either criminally or through an administrative penalty order as set forth herein.

- a) Failure to comply with a corrective action notice issued under section 25.3000 constitutes a misdemeanor and shall be punishable as defined by law.
- b) The County may issue an APO as provided for in Minn. Stat. §§103F.48, subd. 7(b) and (c) and 103B.101, subdivision 12a to a landowner who has failed to take the corrective action set forth in the corrective action notice. For the APO to be effective it must be served on the landowner together with a copy of the corrective action notice or alternatively the County may serve the landowner with a combined Corrective Action Notice and APO so long as the combined Notice/APO includes all the elements of both. Service is effective either by personal service or by depositing the documents set forth herein in the U.S. Mail. Any penalty assessed in the APO shall continue to accrue until the violation is corrected as provided in the Corrective Action Notice and APO.

25.4200 Administrative Penalty Order (APO).

- a) Initial violation. The penalty for a landowner on a single parcel that has not previously been the subject of an APO issued by the County shall be:
  - i. \$0 for 11 months after issuance of the Corrective Action Notice;
  - ii. \$50 per parcel per month for the first six (6) months (180 days) following the time period in i; and
  - iii. \$200 per parcel per month after six (6) months (180 days) following the time period in ii.
- b) Repeat violation. The penalty for a landowner on a single parcel that has previously been the subject of an APO issued by the County or shall be:
  - i. \$50 per parcel per day for 180 days after issuance of the Corrective Action Notice;
  - ii. \$200 per parcel per day for after 180 days following the time period in i.
- c) Ongoing penalty assessment. Any penalty assessed under this section shall continue until the corrective action notice has been satisfied.

25.4210 To be valid the APO shall include, at a minimum:

- i. The facts constituting the violation of the riparian protection and water quality practices requirements set forth in section 25.2000 of this ordinance or Minn. Stat. §103F.48;
- ii. The specific statute and/or ordinance section(s) that has/have been violated;
- iii. A written description of prior efforts to work with the landowner to resolve the violation;
- iv. The amount of the penalty to be imposed;
- v. The date the penalty will begin to accrue;
- vi. The date that payment of the penalty is due;
- vii. The date by which all or part of the penalty may be forgiven if the landowner has/have complied with the Corrective Action Notice; and

- viii. A statement of the landowner's right to appeal the APO.
- 25.4220 All or part of the penalty may be forgiven based on the correction of the noncompliance by the date specified in the APO by the landowner as provided in Minn. Stat. §103F.48, subd. 7(d).
- 25.4230 A copy of the APO must be sent to the SWCD and BWSR.
- 25.4240 An APO issued under this section may be appealed to BWSR within 30 days of receipt by the landowner in accordance with the requirements set for the in Minn. Stat. §103F.48, subd. 9. Any APO that is not appealed within the 30-day period shall be deemed final.
- 25.4300 Administrative Penalty Order Procedures
  - 25.4310 Statute of limitations. Any criminal enforcement action undertaken pursuant to section 25.4000 of this ordinance must be undertaken within two years after the alleged violation was discovered or reasonably should have been discovered by the County. Any administrative enforcement proceeding including the issuance of an APO should be undertaken within three years after the alleged violation was discovered or reasonably should have been discovered by the County. According to Minn. Stat. §541.07, the County has two years in which to commence an APO action after the date the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the landowner involved.
  - 25.4320 Compliance verification. Once a landowner has submitted written evidence of correction of the violation set forth in the notice of compliance, compliance must be verified. The County may consult with the SWCD when conducting a compliance verification. The County will:
    - i. Review and evaluate all information related to the APO to determine if the violation has been corrected;
    - ii. Verify compliance by site visit, re-inspection, examination of documentation, or other means as may be reasonable under the facts of the case; and
    - iii. Document compliance verification.



- 25.4330 Right to appeal. Within 30 days after receipt of the APO, a landowner may appeal the terms and conditions of an APO issued by a County to BWSR as provided in Minn. Stat. §103F.48, subd. 9. The appeal must be in writing and must include a copy of the APO that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally, by U.S. mail, or electronically, to the Executive Director of BWSR.
- 25.4340 Penalty due. Unless the landowner appeals the APO as provided in section 25.4330 the penalty specified in the APO becomes immediately due and payable to the County as set forth in the APO. If, however, the landowner submits written documentation that the violation has been corrected prior to the time the penalty becomes due and payable the County shall verify compliance and adjust the penalty to an amount the landowner would have owed had the penalty been paid on the date the landowner submitted written documentation of compliance. Written documentation of compliance may include a written validation of compliance issued by the SWCD.
- 25.4341 However, if the County determines the violation was not fully corrected, the County shall notify the landowner by issuing a written letter of determination and depositing it in the U.S. Mail. Any determination sent by U.S. Mail shall be deemed received three business days after the letter of determination has been deposited in the U.S. Mail. The landowner shall have an additional 20 days after receipt of the letter of determination to pay the penalty or the time period specified in the APO as issued, whichever is later. The penalty will continue to accrue until the violation is corrected as provided in the Corrective Action Notice and APO.
- 25.4350 Referral for collection of penalty. All penalties and interest assessed under an APO must be paid by the landowner within the time specified in this section. All payments shall be made payable to the County. Any penalty or interest not received in the specified time may be collected by the County using any lawful means.
- 25.4360 Reporting and documentation. The County shall maintain the following records for any potential violation of the riparian protection and water quality practices requirements. Said records shall include but are not limited to the following:
- i. The cause of the violation;

- ii. The magnitude and duration of the violation;
- iii. Documentation showing whether the violation presents an actual or imminent risk to public health and safety;
- iv. Documentation showing whether the violation has the potential to harm the natural resources of the state;
- v. A record of past violations;
- vi. Efforts by the SWCD, County, Watershed District or BWSR to assist the responsible party or parties to become compliant, including written and oral communications with the responsible party or parties ; and
- vii. Past and present corrective action efforts by the responsible party or parties.